APPENDIX VIII

NATIVE AMERICAN IMPACTS SUMMARY

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SUMMARY REPORT

NATIVE AMERICAN CONCERNS: YUCCA MOUNTAIN NUCLEAR WASTE MANAGEMENT PROJECT

October 15, 2001

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INTRODUCTION

The following report summarizes data collected between 1986 and 1995, as well as this past summer, toward assessing potential impacts on Nevada's Native American communities of the proposed Yucca Mountain high-level nuclear waste repository. The report is based on several independent studies. some focused on obtaining baseline data on the communities against which potential impacts might be measured, some based on special effects considering the unique status of Native Americans under the Nuclear Waste Policy Act of 1982 as well as other federal environmental legislation, and some following from special or specific concerns raised by Native communities during the course of interviews. This past summer, additional telephone interviews were conducted and site visits made to reassess tribal concerns given the six year gap.² Appended are some of the specific materials submitted by Native American organizations and tribes reflecting their positions and concerns. Given that tribes are federally recognized governments, several of these groups have responded independently to the DOE's Yucca Mountain Environmental Impact Statement, and will be responding to the call for additional input prior to the decision by the Secretary of Energy as to the continued viability of this project.

BACKGROUND: NATIVE AMERICAN INVOLVEMENT

The proposed site of the Yucca Mountain high-level nuclear waste repository is astride a very old border between the Western Shoshone (Newe) and the Southern Paiute (Nuwuvi), two large Native American cultural and linguistic entities whose aboriginal territories once covered much of what is now central and southern Nevada, as well as parts of adjacent southern Utah and southern California (Figure 1). However, given the potential impacts of the transportation of nuclear waste to this proposed facility, an even broader area of concern needs to be considered, only part of which could be covered for the purposes of this report (see also Halstead, 2000, Appendix I attached).³ Although for at least the past 50 years, and in some cases 100 years or more, constituent subgroups of these two large Native entities have lived on much smaller reservations or in towns and cities, that has not precluded aboriginal claims and feelings of ownership and stewardship for the lands they once inhabited and held (see Figure 2, Newe Sogobia). All of these groups have become very active in the past several years in expressing concerns for their lands and for their cultural resources and Traditional Cultural Properties, and they have insisted on proper agency reviews of their concerns prior to any type of land alerting activity.

Several specific Native American communities and organizations were of concern during the 1986 to 1992 phases of this research; most specifically, those in the immediate proximity of the proposed repository site. Included were Western Shoshone reservations at Duckwater and Yomba in Nevada, and Timbisha, in California (but since 2000 also with Nevada lands), and Southern Paiute reservations at Moapa and Las Vegas (Las Vegas

Colony, Snow Mountain) also in Nevada. All of these groups are federally recognized tribes, a specific status from which flows certain rights and obligations under most federal laws. Populations for these communities as of the early 1990s included some 550 people living on reserved lands with some 900 people actually enrolled in the tribes. Additional people of Western Shoshone and Southern Paiute descent, some of whom are members of federally recognized tribes and others of whom are not, were interviewed at Beatty, Tonopah, Caliente, Pahrump and Las Vegas. The large urban non-reservation population of Indian people in Las Vegas (some 6,000 persons) was not involved in the studies. other than through some contacts at the Las Vegas Indian Center and through the Las Vegas Paiute Tribe. The Western Shoshone National Council, an overarching intergovernmental organization, was a part of these inquiries, although the Council (and some of the tribal governments) also had independent status on the State, Tribal and Local Governmental Steering Committee at various times, and were funded by the State of Nevada independently until funds were exhausted. During 1994, additional visits were made to the Fort McDermitt (Northern) Paiute-Shoshone Reservation on the Nevada-Oregon border to inquire about community attitudes toward siting there a Monitored Retrievable Storage (MRS) facility for high-level nuclear waste, something proposed but ultimately abandoned; and during 1995, at the Moapa Reservation to inquire into special health concerns related to transportation issues. In 2001, largely because transportation issues forced an even broader perspective on suggested impacts along proposed corridors, additional inquiries were made at all of the previous communities (except Fort McDermitt) as well as among the Western Shoshone tribe at Ely, and the four bands of the Te-Moak Shoshone Tribe (Battle Mountain, Elko, Wells, South Fork), all in Nevada. These are not the only Native communities and reservations that will feel major impacts, but rather a sample based on some of the proposed transportation routes in DOE's DEIS.

Indian tribes have unique standing under various environmental and cultural protection acts (National Environmental Polity Act, National Historic Preservation Act, American Indian Religious Freedom Act, etc.). The Nuclear Waste Policy Act of 1982 officially recognized their status when it wrote into the legislation special provisions for consultation with tribes equivalent to that of states. It also defined the additional status of "affected Indian tribe(s)" as one designated because: a) an MRS, test and evaluation facility or a high-level nuclear waste repository was proposed for their reservation lands; or b) the group had ratified treaty rights to additional lands to be used for such facilities (P.L. 97-425). To date, the Department of Energy, lead agency in the Yucca Mountain project, has taken the position that neither a) nor b) applies in the case of the proposed facility. Although Yucca Mountain is clearly not located on a recognized reservation (criterion a), some question why the Treaty of Ruby Valley of 1863 should not be applicable (criterion b; see Western Shoshone Claims, below). Nonetheless, inquiries to the DOE and at least one formal petition for "affected" status to a former Secretary of the Interior have not resulted in the designation of any local entity as an "affected Indian tribe." The DOE has recognized "affected counties," and supplied them with monies for preparatory studies. But, thus far, the DOE has consulted only minimally with tribes, and only on cultural resource issues qualified under a strict interpretation of environmental laws for Yucca Mountain site only, ignoring tribal assertions of broader existing tribal

rights and interests. Cultural resource studies conducted by the DOE created a Consolidated Group of Tribes composed of Western Shoshone, Southern Paiute, Mojave and Owens Valley Paiute people from 17 historic tribes to collaborate with the DOE (see Stoffle, Halmo, Olmstead and Evans 1990). No formal government-to-government relations were established between the DOE and these Native American tribal entities. Thus, tribes and other Native American entities lack any type of "official" status or designation, or any type of collective voice on this major issue. They can and do try to voice concerns as independent governments, but are themselves without the in-house technical expertise or financial resources to conduct their own oversight and independent evaluations of potential impacts from the proposed Yucca Mountain repository.

NATIVE AMERICAN SOCIOECONOMIC AND HEALTH CONDITIONS

Between 1986 and 1994, the study team worked to obtain base-line data on the socioeconomic conditions of the Native American communities in the immediate vicinity of Yucca Mountain. Most of these communities had not been visited by anthropologists or other social scientists since the 1930s, and thus their conditions were largely unknown or undocumented. Field studies of several months duration were made in each of the reservation communities, as well as among non-reservation populations. The 1980 and 1990 censuses were also analyzed and compared to field and other data (see Fowler 1995; Fowler, Hamby and Rusco 1987; Fowler, Hamby, Rusco and Rusco, 1991).

The results of the work indicated that the Indian tribes and reservation communities in the immediate vicinity of Yucca Mountain were for the most part economically disadvantaged, with average incomes more than one-third lower than that of their non-Indian neighbors [Nye County, 1990: reservation incomes, \$18,646; county as a whole, \$34,196. Clark County, 1990: reservation incomes, \$20,000; county as a whole, \$35, 172 (see Table 7.2 in Fowler 1995:109)]. Unemployment rates are also much higher. with Nye County reservations (Yomba, Duckwater) showing on average 26% unemployment (as compared to 7 % for Indians in the county and 5.4 % for the county as a whole); and Clark County at 14.7 % for the Las Vegas and Moapa reservations (9.7 for Indians in the county, and 6.7 for the county as a whole). Although comparable figures are not yet available for the 2000 U.S. census, it is doubtful that the figures for the rural reservations have changed appreciably. Only the Las Vegas Paiute Tribe, which since 1990 has been involved in a vigorous economic development strategy based on profits from their smoke shop revenues (golf courses, resort, bottled water enterprise), is predicted to have shown much improvement. Most of the other groups have had little success in sustaining profitable economic development strategies, although all have tried some type of enterprise since 1990. However, the Las Vegas Paiute Tribe's success, given that it is based on tourism, is now vulnerable to the same factors that can affect an economic down-turn for the entire Las Vegas valley. Nuclear waste transportation and storage has that potential.

Native American populations, both reservation and non-reservation, in the vicinity of the proposed nuclear waste repository, are also not well positioned to take advantage

of potential employment that might come from jobs generated by the repository, unless they be for largely unskilled workers. Although most Native people are finishing high school at present, fewer are going on to college (only 21 of reservation residents in Nye County and 12 in Clark County show education beyond Grade 12). The urban Las Vegas Indian population is better educated, with 1,913 persons reporting work beyond Grade 12 according to the 1990 census (see Fowler 1995:110; Table 7.3). However, it is likely that many of these individuals are already employed, having moved to the urban setting to take advantage of wider job opportunities. Those already employed in unskilled jobs are most often affiliated with the tourist industry, another position of vulnerability if there is an economic down-turn.

Surveys conducted among Native American populations in the vicinity of the proposed repository during the course of these studies indicated that Native American people, like the general population in the region, are quite concerned about the past effects of both above ground and underground testing at the Nevada Test Site. They see themselves as "down-winders," and as already having health problems derived from testing. They see themselves as even more vulnerable to these effects due to their subsistence base, which includes local plants, animals and birds (especially deer, rabbits, berries and pine nuts) that are potentially contaminated. They feel that they and their lands have suffered enough, and that they should not be expected to take on additional burdens having to do with the storage of nuclear waste in the future.

Concern for health, and what may be unusually high rates of childhood leukemia and thyroid diseases among Western Shoshone and Southern Paiute people led the Childhood Cancer Research Institute of Concord, Massachusetts, the Native American Radiation Health Network of Oklahoma, and the Citizen Alert Native American Program (a Nevada-based organization) to begin a joint study of radiation health effects in rural Nevada reservations populations in 1993. Although preliminary findings are inconclusive due to the lack of previous and specific studies of Native American radiation risks by the DOE, or other national or state health networks, sufficient cause was found to continue the research program in the mid and late 1990s. Several rural reservation communities continue to participate in these studies, and have formed an alliance to monitor additional radiation effects (Nuclear Risk Task Force).

Indian people also have strong feelings, deriving from important cultural concerns, that water contamination has occurred in the past and will be an inevitable by-product of the Yucca Mountain waste repository. They see all waters in southern Nevada and eastern California as linked into one large network, so that contamination at any one place affects all. Many share traditional beliefs and feelings of responsibility for the safety of the water and the Earth for future generations, both Indian and non-Indian. These feelings have led many to anti-nuclear positions, and some to outwardly protest. The Western Shoshone National Council, as well as tribal governments independently, have continued anti-nuclear protest demonstrations at the Nevada Test Site throughout the 1990s, and they often aline themselves with other anti-nuclear protest organizations. The WSNC as

well as several tribes have also passed anti-nuclear resolutions (see attachments), and in 1995 declared their Native lands a Nuclear Free Zone.

NATIVE AMERICAN RISK PERCEPTION

As part of the Native American studies, and in coordination with attempts to study risk perception for other segments of the general Nevada population, a questionnaire was developed and administered to a sample of both rural and urban Native individuals. The results of the survey indicated that Native American opinions were far more uniform in opposition and the risks were perceived to be greater in degree than either their urban or rural non-Indian neighbors (see Fowler 1995:112, Table 7.4). The responded at an 82% agreement level that the government cannot be trusted to be truthful about the effects of the project, at a 66% level that the project will be harmful to cultural resources and that the waste cannot be transported safely nor the facility built and operated safely, and at a 70% level in opposition to the project in general. On a scale of 1-10 (10 most negative), people saw threats to personal and family health and water contamination at a mean of 7.7, damage to lands, air and traditional teachings at 5.6 - 6.4, and a worsening of their economic well-being at 4.2 (improvement of economic well-being at 2.1).

In 1994, we asked many of these respondents some of the same questions again, to see whether time and experience had changed opinions. Since 1988, the DOE has done additional archaeological salvage at Yucca Mountain, and Native Americans have visited these sites, listened to briefings, and some have worked as archaeological assistants. The DOE has also made a concerted effort toward Native American outreach through its Las Vegas Yucca Mountain Information Office to better publicize cultural resources of the area and programs being undertaken to salvage them. Our resurvey (Dufort 1995) indicates that Native Americans, including those with direct experience with the site, are just as opposed to the project as before, and still feel that it will be harmful to them, and that it has already harmed their lands and cultural resources. Familiarity, if anything, has increased their opposition.

TRANSPORTATION ISSUES

Native Americans have become increasingly award that they are vulnerable populations when it comes to transporting nuclear waste to the proposed repository. With the exception of Yomba, all Native American reservations are on potential transportation corridors. Even the Yomba Reservation could be vulnerable should a railroad spur line be built from the transcontinental route through northern Nevada to the NTS, as in one of the transportation proposals. The Moapa Reservation is cut by Interstate 15, and also by a main north-south rail line from Utah. The Las Vegas Colony is also on the edge of Interstate 15 and astride the same railroad tracks – and even closer to a major downtown as Vegas switching yard. Their Snow Mountain lands are cut by U.S. 95 between Las Vegas and Yucca Mountain, and, given their location on the west side of the Las Vegas valley, could potentially be endangered by a spur line from the main railroad direct to Yucca Mountain. The Duckwater Reservation is very close to U.S. 6, another major

potential route to Yucca Mountain from the northeast, and could be in proximity to any new rail spurs added on the eastern or western side of the NTS. The Timbisha Shoshone Tribe has recently acquired lands at Scotty's Junction, also on U.S. 95. These are slated for development for community housing and a tourist business. An accident in or near any one of these communities could have disastrous effects, potentially contaminating reservation property irreparably, let alone the people, who are unique ethnically and genetically. Only the Duckwater community has had emergency medical service training to any appreciable degree, and they operate the only response unit for northeastern Nye County. Some of the other communities are closer to urban response teams, but some are not (Yomba, Timbisha). None are prepared for accidents involving nuclear shipments or materials. Nor are they prepared for the economic, social and cultural consequences of contamination of their lands. They have continued voiced their concerns, and their needs for consideration should such a project come their way, but thus far, the DOE has done nothing to address these concerns and needs, including in the DEIS. Yet again, Native American people are being asked to sacrifice what little they have, including the small amount of reserved lands that they have managed to maintain.

WESTERN SHOSHONE CLAIMS

As noted earlier with reference to the NWPA, criterion (b) allows qualification as an "affected Indian tribe" of any federally recognized tribe that has ratified treaty rights to lands being considered for a high-level nuclear waste repository. The Western Shoshone have such a treaty, the Treaty of Ruby Valley of 1863. This treaty was one of "peace and friendship,' through which various subgroups of Western Shoshone people allowed the U.S. to build military posts, and to establish mining, ranching, milling, timbering, and other activities in exchange for certain goods and annuities. The treaty did not formally cede lands (Kappler 1904). However, in 1985, the U.S. Supreme Court held that an award to the Western Shoshone people of monies by the Indian Claims Commission in 1979 constituted payment for their lands (United States-v-Dann, 470 U.S. 39, 40-41, 44 [1985]), regardless of the fact that the Western Shoshone people have thus far refused to accept these monies. But the decision was ambiguous enough to allow pursuit by the Western Shoshone National Council and various Shoshone individuals of other legal options, and they continue to do so. The WSNC has taken the position that Yucca Mountain is on what is still Western Shoshone treaty land, and that the federal government is violating the sovereignty of Western Shoshone tribes by refusing to deal with them fairly and consider them in decision-making on Yucca Mountain. They object strenuously to their lands being used as potential dumping grounds for high level nuclear waste (Zabarte, Indian Country Today, Nov. 3, 1994), and in 1995 they passed a resolution (see Appendix II) declaring Newe Sogobia a "Nuclear Free Zone," basing their decisions and continued fight on international law. This situation has not changed since earlier studies, and doubtless the WSNC will continue its vigorous opposition to any considerations of a nuclear waste repository within their territory. They and many of their supporters, as well as other opponents of nuclear waste, have continued to show their support to opponents of the proposed Skull Valley Gosiute MRS in Utah. In a rally as recently as October 5-7, 2001, the WSNC as well as many other tribal individuals and friends converged on that

site to protest. The WSNC also continues to hold an anti-nulcear a rally each spring at the NTS, as it has done for nearly 20 years.

Southern Paiute governments and people have been less involved in anti-nuclear activities, although a number sympathize with the aims and purposes of the WSNC. Many Southern Paiute people hold similar cultural values that regard the Earth as sacred, and not fit for nuclear testing or the storage of nuclear waste. They also have participated in nuclear risk management studies, and doubtless will continue to do so.

2001 SURVEYS AND UPDATES.

As noted above, additional data were gathered in the spring and summer of 2001 in order to update findings since the State of Nevada's studies of potential impacts of the repository on its citizens were terminated for lack of funding in 1995. These findings are based on additional site surveys and telephone conversations with Western Shoshone and Southern Paiute community leaders and/or other officials, including those in communities that were the focus of the earlier inquiries, as well as others. The approach of this report is to consider each tribal entity separately based on their inherent political status and affiliations. Each tribal entity possesses inherent self-governing authority to a greater or lesser degree based upon each Native American tribal entity's historic political relationship with the US, treaties that emanate from International Law, and their status as federally recognized tribes defined by the US under the Indian Reorganization Act of 1934. Eleven Native American entities are identified for this report based upon each tribal entity's proximity to the proposed Yucca Mountain repository site, as well as its location along possible transportation corridors within the State. As noted earlier, these will not be the only Native American groups impacted by the proposed Yucca Mountain repository, but rather, a sample.

For the Western Shoshone, political affiliations exist in:

- The Western Shoshone National Council, traditional tribal government of the Western Shoshone Nation:
- The Timbisha Shoshone Tribe:
- The Te-Moak Tribe of Western Shoshone Indians including the four satellite communities of the Battle Mountain Band Colony, the Elko Band Colony, the Wells Band Colony, and the South Fork Indian Reservation (each of these communities will be summarized separately);
- The Yomba Shoshone Tribe;
- The Duckwater Shoshone Tribe;
- The Ely Shoshone Tribe.

For the Southern Paiute, political affiliations exist in:

- The Las Vegas Paiute Tribe;
- The Moapa Band of Paiutes.

In this update, a cultural perspective will be used viewing both the on-reservation and off-reservation tribal interests as part of a seamless environment when culturally appropriate, rather than individually isolated communities ending at the reservation boundaries. This approach is particularly useful for identifying potential impacts to the Western Shoshone National Council and other Western Shoshone tribal entities that posses an existing valid treaty with the US and should be used when considering tribal constitutional language.

Each identified tribal entity was contacted through the tribal administration and, as directed, meetings were arranged with the governing tribal council or administrative staff. In most cases the director of the tribal environmental department was identified as the point of contact. Interviews with the tribal contact person and existing data from tribal needs assessments, environmental assessments, and economic development strategies are used to determine potential adverse impacts that could result from the proposed Yucca Mountain repository.

1) THE WESTERN SHOSHONE NATIONAL COUNCIL

Chief Raymond Yowell and Representative John Wells of the Western Shoshone National Council were contacted for interviews. Chief Yowell and Mr. Wells provided background information and identified several concerns of serious import to the Western Shoshone people living in the Great Basin (see Appendix II, Attachment 1).

Establishment

The Western Shoshone National Council was organized from the original self-governing traditional tribal government of the Western Shoshone Nation. The Western Shoshone National Council formalized self-government with a written Organizational Statement in 1984 and a Charter of Self-Government in 1994. Representation of the majority of Newe was through the Western Shoshone National Council until fragmentation occurred in the early 1990's, decreasing representation from 13 tribal entities to 7. The current makeup of the National Council consists of Western Shoshone self-governing entities and federally recognized tribes as follows: Timbisha Shoshone Tribe (Resolution No. 500-84), Ely Shoshone Tribe (Resolution No. 84-EC-10), Dann Band (Letter of Petition 1-31-84), South Fork Traditional Cattlemen (Resolution of 3-31-87), Southern Western Shoshone (Petition unavailable), Yomba Shoshone Community (Petition unavailable), and the Great Basin Western Shoshone Descendants (Resolution of 8-1-1984).

The Western Shoshone National Council maintains the integrity of traditional tribal self-governance by meeting on a regular basis the first Saturday of each month to exercise the traditional democratic process of consensus decision making comparable to legislation. The most notable among these for this study is the 1995 Nuclear Free Zone Resolution (01-WSNC-95) (Appendix II, Attachment 1). Citizenship documents are issued by the

Western Shoshone National Council to define national identity of Western Shoshone people as Newe and to travel abroad.

Acreage

The Western Shoshone National Council maintains that Newe title to approximately 30 Million acres of Newe Sogobia, "The Peoples' Mother Earth" is vested in the Western Shoshone people (Figure 2). The US contends that Western Shoshone title passed to the US by the appropriation of a 1979 Indian Claims Commission Award and the subsequent acceptance of the award by the US as self appointed trustee for the Western Shoshone people.

Chief Yowell called attention to the following International Law and US law specifically prohibiting the alienation of Western Shoshone people from their property, pointing out that the Western Shoshone as a nation are not parties to the US Constitution, and that no part of any state is to include any part of Indian country or to be included into the boundaries or jurisdiction of any state.

- The Northwest Territorial Ordinance of 1787, which states -- "The utmost good faith shall always be observed toward the Indians; their lands and property shall never be taken from them without their consent; and in their property rights and liberty they shall never be invaded or disturbed."
- US Constitution, Article VI, paragraph II, which states -- "This Constitution and laws of the US which shall be made in pursuance thereof and all treaties made, or which shall be made, under the authority of the US shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding."
- •Treaty of Guadeloupe Hidalgo 1848, 9 Statute 922, which states -- "Special care shall be taken" against "those invasions (against the Indians) which the United States have solemnly obliged themselves to restrain."
- •Act of Congress Organizing the Territory of Nevada 1861, which states -"...Providing that nothing in this Act contained shall be construed to impair the rights or
 property now pertaining to the Indians in said territory, so long as such rights shall
 remain unextinguished by treaty between the US and the Indians."

Potential Impacts

- Violation of Western Shoshone territorial sovereignty results from acts of trespass by the DOE development of Yucca Mountain as a high-level radioactive waste site.
- Impact to foreign relations of the Western Shoshone National Council results from otherwise valid rights of the US are not claimed pursuant to the terms of the Treaty of Ruby Valley;

- Environmental racism results by the effort of the US to bring commercial nuclear reactor waste to Newe Sogobia, targeting the Western Shoshone people's land;
- The DOE effort to site a repository at Yucca Mountain takes land and cultural resources out of use by the Western Shoshone people;
- Impact of diminished capacity in self-government results from the deployment of limited human and technical resources from normal day-to-day affairs to unfunded monitoring and response to DOE action;
- Cumulative impacts result from additional burdens created when Western Shoshone land use is further reduced, plant resources are diminished, non-Native American presence increases and additional Western Shoshone cultural resources are disturbed or removed. The identity of the Western Shoshone people is the land;
- Additional impact results when culturally appropriate mitigation is not taken or positive benefit is not paid to the Western Shoshone.

2) THE ELY SHOSHONE TRIBE

Tribal contact was made with Delores Marques, Tribal Administrator. Interviews with two tribal Council Members, Sally Marques, and Christine Stones, provided the information contained herein.

Location and Establishment

The Ely Shoshone Tribe reservation land consists of three checkerboard parcels of which two are located within the City of Ely, NV, and the other at the intersection of US Highway 93, US Highway 50, and US Highway 6. The Ely Shoshone Tribe is a federally recognized tribe organized under the provisions of the Indian Reorganization Act of June 18, 1934 (48 Statute 984), as amended. The Constitution and By-laws of the Ely Shoshone Tribe were approved on April 8, 1966, amended in 1990, and 1999. The Tribe is a Compacting Self-Governance Tribe and receives funding through the Bureau of Indian Affairs and the Indian Health Service. The governing Tribal Council functions as a full governing body.

Acerage

- 99.95 Tribal Land
- 0.37 acres of Federal land
- 11 acres of trust lease White Pine County

Economic Development:

The tribe runs the Small World Daycare and a Laundromat Smokeshop. These are the only existing economic enterprises currently in operation by the tribe.

Services

The Ely Shoshone Tribe provides court services, police services, health services, social services, and housing services to the residents of the reservation. Inter-jurisdictional agreements with public facilities coordinate the delivery of additional services- water, sewer, solid waste services- provided by the City of Ely. Roads on the reservation are maintained by the Nevada Department of Transportation.

Potential Impacts

Potential impacts that result from activities associated with proposed repository operation and transportation may include:

- Impacts to lands held in trust for the tribe that may be damaged by transportation accident or an accident at the proposed Yucca Mountain site;
- Impacts to land outside the reservation boundaries arising from a congressionally ratified treaty may be damaged by transportation accident or an accident at the proposed Yucca Mountain site;
- Impact to extant cultural relationship to land outside of the reservation boundaries that may be removed from use and access by transportation accident or accident at the proposed Yucca Mountain site;
- Impacts to tribal fiscal balances from the need to review and respond to DOE documents without additional funding;
- Impacts to sustainable tribal economic development may result from stigma related to the designation of transportation route through the reservation;
- Impacts to quality of life factors that make the community vulnerable to transportation accidents:
- Impacts to services such as law enforcement from the lack of training or emergency preparedness equipment;

3) THE DUCKWATER SHOSHONE TRIBE

Although a constituent band of the Western Shoshone Nation treated with by the US and formally recognized thereby, no land was identified, reserved, or set aside by the treaty as a reservation within the Western Shoshone aboriginal territory. Tribal contact was made through the tribal administration. After a meeting with the governing tribal council to provide background and information about the proposed Yucca Mountain Repository, Virginia Sanchez was designated as the tribal contact person. Ms. Sanchez provided useful information about the Duckwater Shoshone Tribe including two resolution in opposition to the proposed Yucca Mountain repository (Appendix II, Attachment 2).

Location and Establishment

The Duckwater Shoshone Indian Reservation is located nineteen miles northwest of Current, Nye County, NV on State Route 379. The tribe is organized under the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended. Constitution and By-laws

of the Duckwater Shoshone Tribe approved November 28, 1940 by the Secretary of the Interior.

Acreage

- November 13, 1940 By authority of Section 5, Indian Reorganization Act 3,273.26 acres
- December 22, 1943 By the Act of June 28, 1941 (55 Stat. 303) 398.76 acres.
- January 27, 1955 By authority of the Indian Reorganization Act purchase of Nye County tax deed land 142.5 acres.
- Total acres of tribal land 3, 814.52 acres.

Services

The Duckwater Shoshone tribe provides court services, police services, volunteer fire service and equipment, health clinic services, social services, and educational service from pre-school through the 12th grade.

Economic Development:

The Duckwater Shoshone Tribe operates a tribal cattle herd. The off reservation land used by the tribe for grazing is without permit by the US Bureau of Land Management (BLM). The tribe has been in conflict with the BLM over grazing rights to land outside of the reservation arising from the 1863 Treaty of Ruby Valley. In 1981 the Duckwater Shoshone Tribe ceased paying grazing fees to the BLM. The BLM continues to assert that Western Shoshone aboriginal title was extinguished and the Duckwater Shoshone Tribe livestock is in trespass.

Potential Impacts

Impacts may result from activities associated with the repository operation proposed for Yucca Mountain or in transportation to the proposed Yucca Mountain site. Some of these impacts may include:

- Impacts to self-governance and tribal administration of the Duckwater Shoshone Tribe from failure of institutional capacity to deal with repository related demands;
- Impacts to the government-to-government relationship between the tribe and the federal government being further strained over conflict in ownership of the Yucca Mountain site;
- Impacts to lands held in trust for the Duckwater Shoshone Tribe that may be damaged or made uninhabitable by a transportation accident or accident at the proposed Yucca Mountain site;
- Impacts to access of land outside of reservation boundaries which are secured to under the 1863 Treaty of Ruby Valley that may be damaged or otherwise removed from use by tribal members by radioactive contamination:

- Impacts to the tribe's cultural relationship to lands outside of the reservations boundaries that may be removed from tribal use and access by transportation route designation and construction;
- Impacts to tribal fiscal balances by the need to respond to DOE documents, reports and participation in licensing proceedings without additional funding,
- Impacts to water resources from potential radioactive releases;
- Impacts to potentially returning tribal members from fears of nuclear waste transportation accidents or accidents at the proposed Yucca Mountain site;
- Impacts to sustainable tribal economic development, future economic development opportunities, reservation expansion, and future grazing rights obtained with land from accidental radioactive release in transportation to the proposed repository or at the proposed Yucca Mountain site;

4) THE YOMBA SHOSHONE TRIBE

Although a constituent band of the Western Shoshone Nation treated with the US and formally recognized thereby, no land was identified, reserved, or set aside by the treaty as a reservation within the Western Shoshone aboriginal territory.

Location and Establishment

Approximately 55 miles south of Austin, Nevada at Reese River by improved State Route 21, Nye County, Nevada. Organized under the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended. Constitution and By-laws of the Yomba Shoshone Tribe, approved December 20, 1939.

Acreage

- July 10, 1937 1,560.86 acres
- November 12, 1937 2,200.72 acres
- November 1, 1940 480 acres
- February 28, 1941 476.91 acres
- The total reservation land is 4,718.49 acres.

Services

The Yomba Shoshone Tribe provides tribal court services, police services, social services, water service, and housing services. Additional services are provided by Gabbs Fire Protection service and the Gabbs Ambulance service.

Economic Development

The Yomba Shoshone Tribe operates a tribal cattle herd. The off-reservation land used by the tribe for grazing is without permit by the BLM. The tribe has been in conflict with the BLM over grazing rights to land outside of the reservation arising from the 1863

Treaty of Ruby Valley. The tribe ceased paying grazing fees in the early 1980's and resumed payments after negotiating an agreement with the BLM. The BLM continues to assert that Western Shoshone aboriginal title was extinguished, and the Yomba Shoshone Tribe livestock is in trespass unless fees are paid.

Potential Impacts

The Yomba Shoshone Tribe may experience impacts from transportation accidents and/or accidents at the proposed Yucca Mountain site from:

- Loss of use and access to lands outside of the reservation boundary by the DOE withdrawal for the proposed repository at Yucca Mountain for use as a rail corridor on treaty lands of the tribe;
- Damage to animal habitat from construction of a transportation corridor near the reservation on treaty lands or by an accident in transportation to or at the proposed repository site;
- Damage to resources used by tribal members such as wood, grasses, pinion nuts, plant for food and medicinal uses by radiation exposure;
- Damage to the health of tribal members from possible exposure to radiation through exposure pathways unique to tribal lifestyle from an accidental release in transportation or at the proposed Yucca Mountain site;
- Damage to grazing range utilized by the tribe's cattle operation resulting in damage to the ranching economy of the tribe;

5) TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS

Tribal contact was established with Jennifer Bell, Director of the Te-Moak Tribe of Western Shoshone Indians Environmental Department. A tour of lands adjacent to the Elko Colony along potential highway and rail transportation corridors was provided. An interview with the Ms. Bell was conducted.

Due to the limited land used and occupied by the tribe as colonies and reservation, off-reservation land use plays an important role in maintaining traditional life-ways. The Te-Moak Tribe of Indians considers the Western Shoshone aboriginal territory as their land. No land claim settlement has been made.

Location and Establishment

Territory of the tribe is that land within reservation or colony sites used and occupied by members of the Te-Moak Bands that are a part of Te-Moak Territory - Battle Mountain Band, Elko Band, South Fork Band, and the Wells Band. The office of the Te-Moak Tribe is on the Elko Indian Colony within 100 ft. of US Interstate 80 and within 2 miles of Union Pacific Railroad along the Humboldt River. The Te-Moak Tribe of Western Shoshone Indians has prepared an Environmental Assessment that provided little information other than areas of interest to the tribe (Appendix II, Attachment 3).

The Te-Moak Tribe of western Shoshone Indians is organized under the Indian Reorganization Act of 18 June 1934 (48 Stat. 984) as amended. The Constitution and Bylaws of the Te-Moak Tribe of Western Shoshone Indians was originally adopted on May 3, 1938 by the membership of the tribe and approved by the Secretary of the Interior on August 24, 1938. The Te-Moak Tribe of Western Shoshone Indians Constitution was amended and approved on August 18, 1982. The Constitution and By-laws of the Te-Moak Tribe of Western Shoshone Indians applies to all of the constituent bands of the tribe.

Services

The primary function of the Te-Moak Tribe is the coordinated administration of programs and services for the benefit of the constituent bands of the tribe and outlying Western Shoshone people. These programs and services include:

- Te-Moak Bands Tribal Court;
- Te-Moak Tribal Police;
- Te-Moak Tribal Health Services (Service Provided- Tribal Health, Alcoholism, In-Home Health Services);
- Western Shoshone Social Services (Area Coverage Battle Mountain, Battle Mountain Colony, South Fork Reservation, Goshute Reservation, Wells Colony, Eureka, Carlin, Wendover, Ruby Valley, Elko, and parts of Utah);
- Te-Moak Housing Authority.

Acreage

The acreage of the Te-Moak Tribe is composed of the lands used and occupied by the constituent bands of Battle Mountain (683.3 acres), Elko Band (192.80 acres), South Fork Band (15,680.38 acres), Wells Band (80 acres), for a total of 16,636.48 acres.

Potential Impacts

- Impacts to the Te-Moak Tribe of Western Shoshone Indians fiscal administration of grants and services from insufficient institutional capacity to respond to repository related demands;
- Impacts to self-governance from migration of population away from possible transportation route resulting in lower population base to justify required services;
- Impact related to stigma of off-reservation population unwilling to relocate to tribal lands.

6) BATTLE MOUNTAIN BAND OF THE TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS

Tribal contact was made with Bernice Lalo, Environmental Coordinator. Although a constituent band of the Western Shoshone Nation treated with by the US and formally

recognized thereby, no land was identified, reserved, or set aside by the treaty as a reservation within the Western Shoshone aboriginal territory.

Location & Establishment

At Interstate 80, one mile west of Battle Mountain, Lander County, Nevada. A Band Council, organized under the Constitution and By-laws of the Te-Moak Tribe of the Western Shoshone Indians approved 24 August, 1938. Organized under the Indian Reorganization Act of 18 June 1934 (48 Stat. 984) as amended. Amended August, 1982.

Acreage

- June 18, 1917 By Executive Order set aside 677.05 acres
- August 21, 1967 Public Law 90-72 (81 Stat. 173) added 6.25 acres
- The Battle Mountain Colony lands consist of a total 683.3 acres.

Economic Development:

The Battle Mountain Band operates a convenience store/smoke shop and gas station. Roadside billboard advertising space provide additional income to the tribe.

Services

The Battle Mountain Band provides water services and satellite health care services. Additional services are provided by the Te-Moak Tribe including tribal court services, police services, housing services and social services. Services provided by agreement with Lander County include fire protection and ambulance service.

Potential Impacts

Economic impact may result from designation of Interstate 80 or the Union Pacific/Southern Pacific Railroad as transportation corridor producing a migration away from the city of Battle Mountain and the Battle Mountain Colony;

- Loss of tribal budget funding from the migration of tribal members away from the Battle Mountain Colony resulting in lower population base to justify services;
- Involuntary risk to the Battle Mountain Band population from radiological accident in transportation of nuclear waste by highway or rail.

7) ELKO BAND OF THE TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS

Tribal contact was established with Melanie Everhart, Director of the Elko Band Environmental Department. A tour of the Elko Colony lands where the main tribal

administration of the Te-Moak Tribe is located was provided. An interview with the Ms. Everhart was conducted.

Although a constituent band of the Western Shoshone Nation treated with by the US and formally recognized thereby, no land was identified, reserved, or set aside by the treaty as a reservation within the Western Shoshone aboriginal territory. Use of lands along the Humboldt River for subsistence and medicinal purposed is still exercised. Cultural uses include gathering of willows, fresh water clams, crayfish, and frogs. Subsistence usage of other aboriginal lands include gathering of pinion wood, pinion nuts, upland game, large animals, and the interaction with spiritual areas, religious areas and cultural sites.

Location and Establishment

The Elko colony is located on Fifth Street in Elko, Nevada. US Interstate 80 bisects the colony. A constituent band of the Te-Moak Tribe of Western Shoshone Indians organized under the Constitution and By-laws of the Te-Moak Tribe of the Western Shoshone Indians approved August 24, 1938 and the Indian Reorganization Act of June 18, 1934 (48 Stat. 984). Amended August, 1982

Acreage

The Elko colony consists of 192.80 acres.

Economic Development:

The Elko Band operates a Smoke Shop convenience store. This is the only economic operation operated by the Elko Band Council.

Services

The Elko Band Council provides water, health clinic services, day care, and social services to the residents of the Elko Colony. Services provided by the Te-Moak Tribe include tribal court services, police services and housing services. Agreement with Elko County provides fire and ambulance service.

Potential Impacts

- Traditional life-ways may be interrupted by the removal of aboriginal territory from use by tribal members;
- Removal of aboriginal territory from traditional use by in-transit accidents or onsite accidents resulting in radioactive release at Yucca Mountain;
- Stigma affecting community confidence in environment resulting in migration out of community;
- Impact to trust in tribal government relations with the US;

- Environmental effects such as contamination to traditional food sources:
- Human health effects from radioactive contamination that may disproportionately affect the tribe:
- Loss of confidence by off-reservation tribal members fearing return to tribal community;
- Loss in confidence by community members in the environment's ability to sustain the needs of the people;
- Adverse health effects from exposure to radiation through exposure pathways unique to Native Americans lifestyle.

8) THE SOUTH FORK BAND OF THE TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS

Tribal contact was made with Dallas Smales and Wayne Bill of the Environmental Office of the South Fork Band of the Te-Moak Tribe of Western Shoshone Indians. Although a constituent band of the Western Shoshone Nation treated with by the US and formally recognized thereby, no land was identified, reserved, or set aside by the treaty as a reservation within the Western Shoshone aboriginal territory. The South Fork Band had produced a Chemical Emergency Response Notification plan for the reservation (Appendix II, Attachment 4).

Location & Establishment

Thirty miles south of Elko, Elko County, Nevada, by State Route 228 and paved tribal road at Lee, Elko County, Nevada. A band council, organized under the Constitution and By-laws of the Te-Moak Tribe of the Western Shoshone Indians approved August 24, 1938. Organized under the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended. Amended August, 1982

Acreage

By authority of the Act of June 18, 1934 the following were purchased:

- May 29, 1937 5,862.28 acres
- March 31, 1938 2,195.63 acres
- November 14, 1938 1,514.96 acres
- December 10, 1938 1,987.04 acres
- June 27, 1951 2,708.20 acres
- Total reservation lands 15,680,38 acres.

Economic Development

The South Fork Band of the Te-Moak Tribe of Western Shoshone Indians operates a tribal cattle herd. The tribal herd is grazed both on the reservation and off-reservation. The off reservation land used by the tribe for grazing is without permit by the BLM. The

tribe has been in conflict with the BLM over grazing rights to land outside of the reservation arising from the letter of the 1863 Treaty of Ruby Valley, "... as hunters or herdsmen." The cattlemen also refer to the tribal Constitution Certification of Adoption of the Te-Moak Bands of Western Shoshone Indians which states, "All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any provision of said Constitution and By-laws are hereby declared inapplicable to the Te-Moak Band of Western Shoshone Indians." Interpretation by the cattlemen reinforces their belief that the Taylor Grazing Act of 1934 is inapplicable to the tribe. In 1983 the South Fork Cattlemen Association ceased paying grazing fees to the BLM. The BLM continues to assert that Western Shoshone aboriginal title was extinguished and the South Fork Cattlemen Association livestock are in trespass.

Services

The South Fork Band of the Te-Moak Tribe of Western Shoshone Indians provide limited services. These services include tribal administration, community health representative and volunteer fire equipment. Additional services are provided by the Te-Moak Tribe of Western Shoshone Indians including tribal court services, police services, ambulance services, social services and housing services.

Potential Impacts

- Impact from transportation accident could result in release of radiation and produce fear in the community;
- Lack of institutional capacity may strain tribal resources;
- Damage to animal habitat including migratory game birds and wild horses from construction of a transportation corridor near the reservation, within the tribes treaty lands, or by an accident in transportation to or at the proposed repository site;
- Damage to resources used by tribal members such as wood, grasses, pinion nuts, plant for food and medicinal uses by radiation exposure;
- Damage to the health of tribal members from possible exposure to radiation through exposure pathways unique to tribal lifestyle from an accidental release in transportation or at the proposed Yucca Mountain site;
- Damage to grazing range utilized by the tribe's cattle operation resulting in damage to the ranching economy of the tribe;

9) THE WELLS BAND OF THE TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS

Tribal contact was made with Ken Yazzi, Environmental Coordinator of the Environmental Department. Although a constituent band of the Western Shoshone Nation treated with by the US and formally recognized thereby, no land was identified, reserved, or set aside by the treaty as a reservation within the Western Shoshone aboriginal territory.

10) THE TIMBISHA SHOSHONE TRIBE

Although a constituent band of the Western Shoshone Nation treated with by the US and formally recognized thereby, no land was identified, reserved, or set aside by the treaty as a reservation within the Western Shoshone aboriginal territory. Contact was made with Bill Helmer, tribal EPA Project Director, and Barbara Durham, Tribal Administrator. Several documents concerning the DEIS as well as comments and a resolution against the waste repository were supplied by the Tribal Office (see Appendix II, Attachment 5).

Location and Establishment

The Timbisha Shoshone Tribe is headquartered at Furnace Creek, Inyo County, CA, within Death Valley National Park. It is approximately 50 miles from Pahrump, NV, 38 miles from Beatty, NV, and 45 miles from Shoshone, CA. The tribe has been federally recognized since 1981 under part 83, Title 25, CFR. The tribe is an active participant in the Western Shoshone National Council. In 2000, the tribe was given five discontinuous parcels of reservation lands, including for the headquarters at Furnace Creek (P.L. 106-423). In addition to reservation lands, the tribe was also given the right to co-manage with the National Park Service additional large tracts of land within Death Valley National Park. The tribe is presently putting together various plans to accomplish this.

Acreage

- November 1, 2000 by PL 106-423, 313.99 acres at Furnace Creek, Death Valley National Park, CA.
- November 1, 2000 by PL 106-423, 2,800 acres at Scotty's Junction, NV
- November 1, 2000 by PL 106-423, approximately 1,000 acres at Death Valley Junction, CA
- November 1, 2000 by PL 106-423, approximately 3,000 acres at Lida, NV
- November 1, 2000 by PL 106-423, a parcel size yet to be determined, at Centennial, CA.

Services

The Timbisha Shoshone Tribe is in the process of developing a court system, and various other types of infra-structure given its new status as a landed tribe. Health and social services are provided through the Toyabe Health Board, a consortium of tribal groups in southeastern California (particularly Inyo, Mono Counties). Fire protection is by the National Park Service, which also presently maintains the road in Furnace Creek Village and vicinity. Roads to other parcels are California and Nevada state highways, and county roads and are maintained by those entities. Children attend grades school in Death Valley and high school in either Beatty, NV or Shoshone, CA.

Economic Development

The Timbisha Shoshone tribe does not presently have economic development, largely because it lacked a land base until recently. However, the tribe is now planning with the Park Service a convenience store/gas station complex, and a cultural/visitor center on its property in Furnace Creek. Similar plans for housing and economic development are underway for the remaining parcels as well. A few tribal members are employed by the NPS, but more are employees of the tribal government and its programs. The tribe maintains a radio station at Furnace Creek which broadcasts daily.

Potential Impacts

- The tribe is very concerned about potential nuclear contamination of its ground water supply, given that the limited amount of water available at Furnace Creek, Death Valley Junction, and Lida are particularly close to the Yucca Mountain site (within 35 miles).
 - Contamination of the land in general, including the whole of Western Shoshone lands, but also the tribe's mesquite and pinyon reserves, over which it has special guardianship now recognized by law.
- Potential contamination of the land and its resources also mean certain contamination of the people, as they are dependent on each other.
 - With this destruction comes cultural destruction given that the people can no longer move about their lands and hunt and collect their resources, a right just recently won after long negotiations with the NPS
 - The proposed Carlin/Caliente Bonnie Clair rail corridor alignment for transport passes through the Tribe's Scotty's Junction land, as does US 95, a non-rail shipment route.
 - The tribe's future economic development is based on clean, tourist-related industry, including convenience stores, cultural activities, and potentially accommodations. These would be seriously endangered by any economic down-turn.
 - The tribe recognizes the Treaty of Ruby Valley, and sees the construction of a repository as a violation of tribal and individual rights.
 - DOE activities which disturb Western Shoshone cultural sites on Yucca Mountain cannot be mitigated.

11) THE LAS VEGAS PAIUTE TRIBE

Tribal contact was made with Kenny Anderson, Manager of the Environmental Programs. Mr. Anderson deferred to Mr. Atef Elzeftawy for consultation on potential impacts to the tribe.

Location and Establishment

Within the Las Vegas city limits on the west side of Main Street, one mile north of downtown Las Vegas, Clark County, Nevada. And, 18 miles north of Las Vegas on Tonopah Highway. The Las Vegas Paiute Tribe is organized under the Indian

Reorganization Act of June 18, 1934 (48 Stat. 984) as amended. The Constitution and Bylaws of the Las Vegas Paiute Tribe were approved July 20, 1970.

Acreage

- April 17, 1912 purchase of 10 acres
- December 2, 1983 Public Law 98-203 added 3,840.15 acres
- Total tribal lands consist of 3,850.15 acres.

Economic Development

The Las Vegas Paiute Tribe operates two convenience store/smoke shops and a professionally designed golf course, pro-shop and club-house. The gold course expansion is expected to increase for a total of 72 playable holes. Water resources are also used for bottled water sold at the tribal convenience stores.

Services

The Las Vegas Paiute Tribe provides tribal court services, police services, and health care services (Full Health Clinic & Community Health Representative) and social services. Additional services provided by the City of Las Vegas include fire protection, ambulance services and housing services.

Potential Impacts

Potential Impacts to the Las Vegas Paiute Tribe are linked closely with the Las Vegas/Clark County economy.

- Many of the social and economic conditions that would adversely affect the Las Vegas Valley would also affect the Las Vegas Paiute Tribe;
- The Las Vegas Paiute are more vulnerable to a transportation accident near or on their reservation because not only could the economy of the tribe be damaged or destroyed, but the tribal homelands could be made uninhabitable. This would be a social disaster;
- Contamination of the tribe's water resources from a transportation accident;

12) THE MOAPA BAND OF PAIUTE INDIANS

Tribal contact was made with the tribal chairman and immediately referred to Calvin Meyers, Director of the tribal Department of Environmental Protection. An interview was conducted with Mr. Meyers. A document, Draft Tribal Preparedness for High Level Nuclear Waste Traversing Tribal Lands was provided by the Department of Environmental Protection (Appendix II, Attachment 6).

Location and Establishment

Approximately 8 miles west of Glendale, Nevada, from junction of State Route 168 and Interstate 15 - approximately 55 miles Northeast of Las Vegas, Clark County, Nevada. The Moapa Band of Paiutes is organized under the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended. Constitution and By-laws of the Moapa Band of Paiute Indians approved April 17, 1942.

Acreage

- March 12, 1873 2 million acres by Executive Order;
- February 12, 1874 1,000 acres added by Executive Order;
- March 3, 1875 By the authority of the Act of March 3, 1875 (18 Stat. 445) reduced to 1,000 acres;
- December 2, 1980 By legislation 70,565.46 acres added P.L. 96-491;
- Total reservation lands consist of 71,954.19 acres.

Economic Development:

The Moapa Band of Paiute operate two convenience store/smoke shops. The store on Interstate 15 sells fireworks and has expanded to add casino slot gambling. Tourism provides the largest flow of customers and revenue for the tribe. Lease rights-of way provide addition income for the tribe. Agriculture provides additional economic diversity but this is mostly an individual economic activity. The Tribe is also about to enter into a significant lease with an independent power company to locate a large power plant on its lands, and to grant the same plant the rights to use its underground water.

Services

The Moapa Band of Paiute provide court services, police services, community health representative, social services and housing services. Additional fire and ambulance services are volunteer.

Potential Impacts

The Draft Tribal Preparedness document demonstrate the need the Moapa Band of Paiute fell are important yet missing.

- Impact to government-to-government relations from focus on one site that erodes confidence in the trust relationship;
- Lack of emergency preparedness training and equipment produce fear and dread of nuclear waste transportation and storage;
- Desecration of traditional spiritual beliefs and values by transportation of nuclear waste along physical paths used for spiritual transcendence;
- Economic impacts from loss of tourism;
- Increased cost of living for insurance and business revenue:
- Impacts to quality of life factors including social and cultural relationships.

SUMMARY

Research over the past 15 years has identified Native American people in the Yucca Mountain project area and beyond as vulnerable populations from a variety of perspectives: lack of an appropriate and authoritative voice; socioeconomic disadvantages, both present and future; past and present health concerns; transportation issues; a variety of socioculturally conditioned risk concerns; and beliefs about the legality and legitimacy of government land claims. They share some of these vulnerabilities with their non-Indian neighbors (health concerns, socioeconomic disadvantages, transportation issues), but they also add unique aspects to them, given their ethnic status, federal relationships, and a history of them being ignored at various levels. There has been a consistent pattern by the DOE and this project of failing to recognize tribes as sovereign governments with unique constituencies and land bases. DOE should be dealing with all tribes on a government-to-government basis. As it stands, the tribes have neither the funding nor the technical expertise to do what is required to either properly comment or prepare themselves for the eventuality of this project.

In addition, Native American tribes seem to be the only ones who are taking the broader view of very serious potential of this project for the contamination of the Earth, water, resources and people. The events of September 11 and the weeks following make it all too clear just how vulnerable any area of this country is, and our leaders should be following suit by thinking very carefully about the long term impacts of such an undertaking on particularly vulnerable populations and their lands as well as everyone and everything.

NOTES

- 1) Work conducted by Cultural Resources Consultants, Ltd, Reno Nevada. Personnel working on these studies have included: Catherine S. Fowler, Ph.D., principal investigator, Elmer Rusco, Ph.D., Mary Rusco, M.A., Maribeth Hamby, M.A. MollyDufort,, Ph.D., Harold Abel, M.Ed, and Ian Zabarte. For bibliography of studies see Yucca Mountain Socioeconomic Study Team 1993; Nevada Socioeconomic Study Team 1995.
- 2) The section of this report that summarizes the 2001 survey was written by Ian Zabarte.

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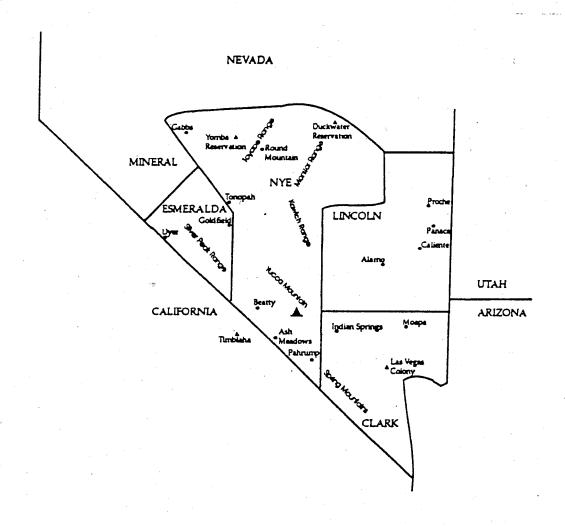
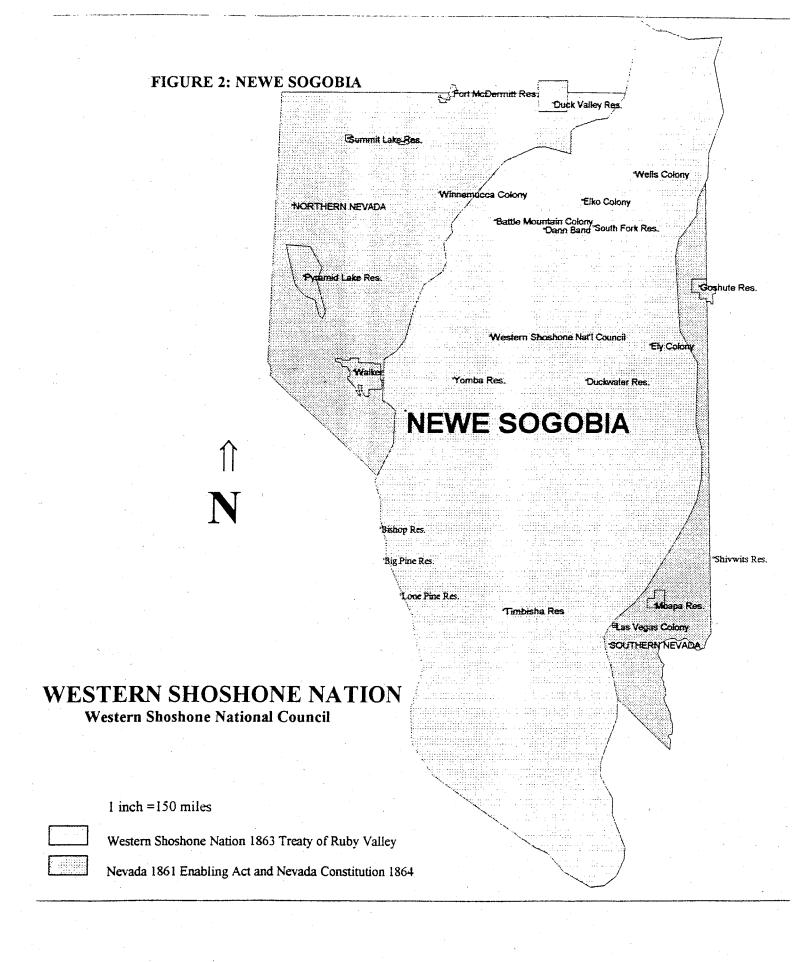


FIGURE 1: YUCCA MOUNTAIN AND VICINITY



APPENDIX I: HIGH LEVEL NUCLEAR WASTE TRANSPORTATION (Halstead, Bob, 2000, NNWPO)

HIGH-LEVEL NUCLEAR WASTE TRANSPORTATION

Potential Impacts on Native American Communities Of High-Level Nuclear Waste Shipments to Yucca Mountain

Native American communities and Indian Reservations in Nevada and 16 other states would be directly impacted by thousands of shipments of civilian spent nuclear fuel and defense high-level nuclear waste under the U.S. Department of Energy (DOE) proposal to construct a waste repository at Yucca Mountain, Nevada. According to DOE's 1999 Draft Environmental Impact Statement (DEIS), there could be up to 96,000 cross-country shipments over 39 years.

A study prepared for the State of Nevada identified the following potentially affected Indian Reservations along the most likely highway and rail corridors to Nevada:

Arizona - Hualapai and Navajo (I-10, I-40; BNSF/UPRR);

California - Agua Calientes, Cabazon, Chemehuevi Valley, Ft. Mojave, Ft. Yuma, Morongo, Torres Martinez, and Hoopa Valley (I-10, I-40/I-15, BNSF/UPRR); Florida - Hollywood (I-95, FECR);

Idaho - Fort Hall (I-15, UPRR)

Iowa - Mesquakie(Sac & Fox) (UPRR);

Kansas - Potawotamie (UPRR);

Minnesota - Prairie Island (CP/Soo);

Nebraska - Omaha and Winnebago (UPRR);

New Mexico - Acoma, Canoncito, Isleta, Laguna, Navajo, and Zuni (I-10, I-40; BNSF/UPRR);

New York - Cataraugas and Tonawanda (I-90, Conrail)

North Carolina - Cherokee (I-40)

Oklahoma - Choctaw, E. Shawnee, Kialegee Creek, Kickapoo, Miami, Modoc, Osage, Ottawa, Peoria, Quapaw, Sac & Fox, and Thlopthlocco Creek (I-35, I-40; BNSF/UPRR); Oregon - Umatilla (I-84; UPRR);

Utah - Goshute, Ouray, Skull Valley, and Unitah (I-84/I-15/I-80/US93A, UPRR)

Washington - Yakima (I-84; UPRR)

Wisconsin - Oneida (WCRR)

All of the Indian Reservations identified by the State of Nevada study (PIC, 1995) would be affected by at least one of the shipping scenarios (mostly rail and mostly truck) proposed by DOE.

HIGH-LEVEL NUCLEAR WASTE TRANSPORTATION

Potential Impacts on Native American Communities in Nevada

Native American communities, lands, and cultural resources in Nevada would be directly impacted by thousands of shipments of civilian spent nuclear fuel and defense high-level nuclear waste under the U.S. Department of Energy (DOE) proposal to construct a waste repository at Yucca Mountain, Nevada. According to DOE's 1999 Draft Environmental Impact Statement (DEIS), there could be up to 96,000 shipments through Nevada over 39 years.

The State of Nevada considers the following Indian Reservations and Colonies in Nevada to be potentially affected by rail and truck routes identified in the DEIS:

- -Moapa Reservation (UPRR, I-15)
- -Las Vegas Resrvation (Valley Rail Spur, US95)
- -Ely Colony (US93)
- -Duckwater Reservation (US6)
- -Walker River Reservation (UPRR)
- -Pyramid Lake Reservation (UPRR)
- -Reno-Sparks Colony (UPRR)
- -Lovelock Colony (UPRR)
- -Wnnemucca Colony (UPRR)
- -Te-Moak Reservations [Battle Mountain, Elko, South Fork, Te-Moak, Wells] (Carlin Rail Spur, UPRR)

The State of Nevada has urged DOE to formally define affected Native American lands and resources to included the following:

- (1) reservations crossed by potential shipping routes;
- (2) off-reservation ceded lands, where Tribes retain treaty rights or other legally-recognized user rights, crossed by potential shipping routes;
- (3) reservation lands and off-reservation lands within transportation emergency evacuation zones along potential shipping routes;
- (4) reservation and off-reservation lands which could be contaminated by air or water transport of radioactive materials released in a severe transportation accident or terrorist incident (generally within 50 miles down-wind, down-stream, or down-gradient of a potential shipping route);
- (5) reservations whose highway access would be disrupted by a nuclear waste transportation emergency; and
- (6) off-reservation lands along potential shipping routes where Tribal personnel would likely be involved in transportation emergency response.

The State of Nevada believes that the Yucca Mountain DEIS gives insufficient consideration to the major concerns identified by potentially affected Indian Tribes and by the National Congress of American Indians. These concerns include:

- (1) Tribal authority to regulate shipments across reservations;
- (2) emergency response planning and training for Tribal personnel;
- (3) advance notification of shipments and shipment monitoring,
- (4) protection of Native American religious and cultural sites, plants, and animals, both on and off reservations;
- (5) cultural implications of potential radiological contamination of Indian lands, and the cultural implications of cleanup activities involving non-tribal personnel; and
- (6) adverse economic impacts of public perception of risk, especially adverse impacts on tribal tourism and recreation businesses.

Moreover, except for Tribes in Idaho, DOE failed to identify potentially Indian reservations and communities in the DEIS and in the public hearing notices, and failed to provide financial assistance to facilitate independent technical review of the DEIS by potentially affected Indian Tribes.

APPENDIX II: MATERIALS SUBMITTED BY TRIBES, 2001

Attachment 1: Western Shoshone National Council



WESTERN SHOSHONE NATIONAL COUNCIL THE TRADITIONAL GOVERNMENT OF THE WESTERN SHOSHONE NATION

1ST SESSION-CONFERENCE FOR SELF-GOVERNMENT RESOLUTION 94-01

CHARTER OF SELF-GOVERNMENT

- WHEREAS, HUMAN RIGHTS ARE SACRED, BASIC, FUNDAMENTAL, AND NON NEGOTIABLE; AND,
- WHEREAS, THERE EXISTS AN INDEFINITE NUMBER OF INDIGENOUS ABORIGINAL SOVEREIGN WESTERN SHOSHONES RESIDING IN THE TERRITORIES OF THE WESTERN SHOSHONES, AS DEFINED BY TRADITIONAL USE, MARKERS; AND,
- WHEREAS, THE TERM "WESTERN SHOSHONE PEOPLE" MEANS A PERSON OF NATURAL INDIGENOUS WESTERN SHOSHONE DESCENT AND OTHER SHOSHONE GROUPS RECOGNIZED BY THE WESTERN SHOSHONES: AND. THE TERM "ELDERS" MEANS KEEPERS OF KNOWLEDGE; AND THE TERM "SELF DETERMINATION" MEANS THE INDIVIDUAL AND COLLECTIVE RIGHT TO CHOOSE ONE'S DESTINY (IN COMPLIANCE WITH THE PROVISIONS OF THE UNITED NATIONS CHARTER ARTICLE 73); AND, THE TERM "SELF GOVERNMENT" MEANS THE INDEPENDENT GOVERNMENT OF AND FOR THE WESTERN SHOSHONES (ACCORDED IN THE PROVISIONS OF THE UNITED NATIONS CHARTER ARTICLE 73); AND. THE TERM "WESTERN SHOSHONE" MEANS THE INDIGENOUS ABORIGINAL SOVEREIGN NATION ESTABLISHED SINCE TIME IMMEMORIAL: AND, THE TERM "WESTERN SHOSHONE NATIONAL COUNCIL", HEREAFTER "WSNC", MEANS THE GOVERNMENT OF THE WESTERN SHOSHONES, FROM PRESENT AND BEING CONTINUAL AND UNBROKEN FROM TIMES BEGINNING.
- WHEREAS, THE WESTERN SHOSHONES HAVE NEVER RELINQUISHED THEIR VALID, EXISTING, INDIGENOUS ABORIGINAL SOVEREIGN TITLES AND RIGHTS, BY WRITTEN RESOLUTION, IMPLIED CONSENT, DISCOVERY, CONQUEST, CESSION, TREATIES, STATUTES, COURT ORDER, OR TERRA NULLIUS; AND.

THE PRINCIPLES OF THE UNIVERSAL DOCTRINE OF HUMAN RIGHTS, AND THE UNITED NATIONS DECLARATIONS AND COVENANTS. IN PARTICULAR THE DECLARATION OF THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES; DECLARATION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION; CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE, PRINCIPLES OF INTERNATIONAL CO-OPERATION IN THE DETECTION. EXTRADITION AND PUNISHMENT OF PERSONS GUILTY OF WAR CRIMES AND CRIMES AGAINST HUMANITY, DECLARATION ON THE PROTECTION OF ALL PERSONS FROM BEING SUBJECTED TO TORTURE AND OTHER CRUEL, INHUMANE OR DEGRADING TREATMENT OR PUNISHMENT; DECLARATION OF BASIC PRINCIPLES OF JUSTICE FOR VICTIMS OF CRIME AND ABUSE OF POWER; DECLARATION ON TERRITORIAL ASYLUM; DECLARATION ON THE HUMAN RIGHTS OF INDIVIDUALS WHO ARE NOT NATIONALS OF THE COUNTRY IN WHICH THEY LIVE; DECLARATION ON THE PROTECTION OF WOMEN AND CHILDREN IN EMERGENCY AND ARMED CONFLICT: DECLARATION ON SOCIAL AND LEGAL PRINCIPLES RELATING TO THE PROTECTION AND WELFARE OF CHILDREN, AND.

- WHEREAS, THE WESTERN SHOSHONES FIND THAT THE MAIN ISSUES AFFECTING THEIR CULTURAL, ECONOMIC, AND SOCIO-POLITICAL RIGHTS AS WESTERN SHOSHONES, ARE BEING IGNORED AND CONFUSED, OFTEN TIMES WILLFULLY, AND THAT THIS BREACH OF TRUST IS LENDING TO CONTINUED INTERNATIONAL CORPORATE MIS-MANAGEMENT OF RESOURCES RESERVED FOR THE INDIGENOUS ABORIGINAL SOVEREIGN TITLE HOLDERS, AND;
- WHEREAS, THE CONFUSION OF THE APPLICATION OF FULL PLENARY JURISDICTION DUE TO THE LACK OF RECOGNITION OF INDIGENOUS ABORIGINAL SOVEREIGN WESTERN SHOSHONE AUTHORITY, COULD CREATE IRREPARABLE DAMAGE TO THE SOVEREIGN INTERESTS OF THE UNITED STATES OF AMERICA AND THE SOVEREIGN WESTERN SHOSHONE NATION; AND,
- WHEREAS, THE WESTERN SHOSHONES ARE IN AGREEMENT THAT CULTURAL SURVIVAL IS CRITICALLY BASED ON HUMAN RIGHTS TO DEVELOP SELF-SUFFICIENT, AND SELF-RELIANT ECONOMIES, AND,
- WHEREAS, THERE HAS BEEN A CIRCUMVENTION OF INDIGENOUS ABORIGINAL

- WHEREAS, THE WESTERN SHOSHONES ARE SOVEREIGN AND HAVE AN INHERENT RIGHT TO SELF-DETERMINATION AND SELF-GOVERNMENT, FURTHER RECOGNIZED BY THE INTERNATIONAL TRUSTEESHIP SYSTEM, THE UNITED NATIONS CHARTER DECLARATIONS AND CONVENTIONS, AND THE UNITED STATES CONGRESSIONAL ACTS, AND,
- WHEREAS, THE FULL PLENARY POWERS VESTED IN THE WESTERN SHOSHONE NATION ARE PROTECTED AND SECURED BY INTERNATIONAL LAWS AND TREATIES, AND,
- WHEREAS, THE W.S.N.C., AS THE GOVERNMENT OF THE WESTERN SHOSHONES
 HAS BEEN ESTABLISHED FROM TIME IMMEMORIAL BY AND THROUGH THE
 AUTHORITY OF THE WESTERN SHOSHONE PEOPLE, FOR THE PROTECTION
 OF THEIR FUNDAMENTAL AND BASIC HUMAN RIGHTS, AND,
- WHEREAS, THE WESTERN SHOSHONES SET POLICY BY CONSENSUS FOR THE ADMINISTRATION OF GOVERNMENT AFFAIRS AND SERVICES, TO THEIR COMMUNITIES, AND,
- WHEREAS, FULL LEGISLATIVE, JUDICIAL, AND ADMINISTRATIVE FUNCTIONS OF GOVERNMENT ARE WHOLLY VESTED IN THE W.S.N.C.; AND,
- WHEREAS, ONLY THE W.S.N.C. HAS THE WESTERN SHOSHONES' AUTHORITY TO MAKE SELF-DETERMINATION DECISIONS, AND HEREBY ENDORSE THE INTERNATIONALLY RECOGNIZED PRINCIPLES OF SELF-DETERMINATION, AND.
- WHEREAS, THE WESTERN SHOSHONES, HAVE THE RIGHT TO BE PROTECTED BY THEIR TRADITIONAL GOVERNMENT, AND INFORMED ON ALL MATTERS PERTAINING TO THEIR RIGHTS UNDER INDIGENOUS ABORIGINAL SOVEREIGN TITLE, AND TO SECURITY PROTECTION OF THOSE INHERENT RIGHTS, TO SUBSIST BY HUNTING, FISHING, HARVESTING, GATHERING, PROPAGATING, AND MIGRATING, AND,
- WHEREAS, THE WESTERN SHOSHONES HAVE SUCCESSFULLY APPLIED AND

INCORPORATED THEIR CREDENTIALS IN WESTERN SHOSHONE SCIENCE AND ITS APPLIED PHYSICS, WHICH IS DEFINED AND INCORPORATED WITHIN THE WESTERN SHOSHONE LANGUAGE; AND,

- WHEREAS, THE WESTERN SHOSHONES RECOGNIZE THE DISPLACEMENT, DISORIENTATION, AND CULTURAL DISINTEGRATION OF THE WESTERN SHOSHONES, AND HAVE NOT ABANDONED THEIR COMMUNITIES, AND RECOGNIZE THEIR LINGUISTIC KINSHIP RELATION THROUGH GENEALOGICAL IDENTIFICATION, AND,
- WHEREAS, THE W.S.N.C. ACCEPTS THE RESPONSIBILITY TO RESTORE,
 REPAIR, PROTECT, AND ADVANCE WESTERN SHOSHONE RIGHTS, ON AN
 INTERNATIONAL, GLOBAL, AND LOCAL LEVEL, AND,
- WHEREAS, ALL ORGANIC AND IN-ORGANIC RESOURCES WITHIN THE WESTERN SHOSHONE JURISDICTION ARE NECESSARY FOR THE PHYSICAL HEALTH AND WELL-BEING OF THE WESTERN SHOSHONES, AND.
- WHEREAS, THE W.S.N.C. ASSEMBLE TO DISCUSS AND REVIEW THE IMPACT OF DIRECT INPUT, INTO THE DECISION MAKING PROCESS, AS IT RELATES TO SELF-DETERMINATION, SELF-GOVERNMENT, AND THE COOPERATIVE MANAGEMENT OF NATURAL RESOURCES, AND,
- WHEREAS, THE WESTERN SHOSHONES HAVE THE INALIENABLE RIGHT TO BE FREE FROM GOVERNMENTAL VIOLATIONS OF INTEGRITY OF THE PEOPLE, RELIGION, AND MOVEMENT WITHOUT DISCRIMINATION BASED ON RACE, ANCESTRY, OR SEX, AND TO BE FREE FROM GOVERNMENTAL VIOLATIONS BY THE UNITED STATES AND/OR ANY OTHER NATION, AND,
- WHEREAS, THE MAINTENANCE AND PERPETUATION OF THE INDIGENOUS
 ABORIGINAL SOVEREIGN WESTERN SHOSHONE RELIGIOUS CREED,
 BELIEFS, DOCTRINES, PRACTICES, CUSTOMS, AND RITUALS, IS ESSENTIAL
 TO MAINTAIN THEIR NATIONALITY, AND BASIC HUMAN RIGHTS, AND,
- WHEREAS, THE WESTERN SHOSHONES RECOGNIZE AND ARE AGREEABLE WITH

SOVEREIGN AND INALIENABLE TITLE RIGHTS, THAT HAS DENIED THE WESTERN SHOSHONES THEIR INTEGRITY, AS WELL AS PERSONAL, POLITICAL, CIVIL CULTURAL, AND ECONOMIC RIGHTS, WHICH HAS ACCOMMODATED AND PROMOTED THE DESECRATION AND EXPLOITATION OF THEIR LANDS, TERRESTRIAL WATERS, FISHERIES, AND OTHER MINERAL, ORGANIC AND IN-ORGANIC NATURAL RESOURCES, AND

- WHEREAS, THE WESTERN SHOSHONES HAVE WITNESSED, REPORTED TO, AND HELD IN EVIDENCE THEREOF, OF THE INTENT AND INADEQUACIES OF THE UNITED STATES GOVERNMENT AND ITS FAILURE TO EFFECT MEANINGFUL REHABILITATION AND FORCING THE WESTERN SHOSHONES TO BE SELF-DISCRIMINATING BY BLOOD QUANTUM, BY NON-SETTLEMENT AND RESETTLING THEM ON MARGINAL AND AT TIMES UN-INHABITABLE LANDS; AND,
- WHEREAS, ALTHOUGH THE WESTERN SHOSHONES ARE VOLUNTARY PARTICIPANTS TO THE TREATY OF RUBY VALLEY OF 1863, THE WESTERN SHOSHONES HAVE NOT CEDED OR ABANDONED THEIR LANDS OR OTHER INTERNATIONAL RELATIONSHIPS AND INHERENT INDIGENOUS ABORIGINAL SOVEREIGN TITLE RIGHTS TO REASSERT THE SOVEREIGN AUTHORITY, AND,
- WHEREAS, THE WESTERN SHOSHONES WITH CLEAR INTENT TO PURSUE RESTORATION OF UNEXTINGUISHED INDIGENOUS ABORIGINAL SOVEREIGN TITLE RIGHTS AS GUARANTEED BY THE TREATY OF RUBY VALLEY OF 1863 REGARDLESS OF A FAILED U.S. ADMINISTRATIVE ATTEMPT TO ASSIMILATE AND RE-CULTURE WESTERN SHOSHONES; AND.
- WHEREAS, THE GENOCIDAL FAILURE OF U.S. AND STATES' ADMINISTRATIVE TRUST CONSTITUTE A MULTIPLE DEPRIVATION OF HUMAN AND INALIENABLE RIGHTS OF WESTERN SHOSHONES BY ITS EFFICACIOUS ATTEMPTS TO FURTHER LIMIT THE SCOPE OF CULTURAL, ECONOMIC, AND POLITICAL COMPATIBILITY, BY FOSTERING INHUMANE ATTITUDES, PERPETRATING CULTURAL, ECONOMIC, AND POLITICAL GENOCIDE, AND:

WHEREAS, THE WESTERN SHOSHONES PLEDGE TO UPHOLD AND PROMOTE THE DEVELOPMENT OF SELF-RELIANT, SUFFICIENTLY SELF-GOVERNING TERRITORIES BY RECOGNIZING INDIGENOUS ABORIGINAL SOVEREIGN TITLE, AND;

WHEREAS, THE INTERNATIONAL COVENANTS OF THE CONVENTION OF THE PREVENTION AND THE PUNISHMENT OF THE CRIME OF GENOCIDE, AND THE DOCTRINE OF HUMAN RIGHTS, WAS RATIFIED ON FEB. 19, 1986, BY THE CONGRESS OF UNITED STATES OF AMERICA, AND FURTHER IMPLEMENTED BY UNITED STATES PUBLIC LAW 100-606, THE PROXMIRE ACT, NOV. 4, 1988, RONALD REAGAN, ESTABLISHING GENOCIDE AS A CRIMINAL ACT, AND ENFORCEABLE BY THE U.S. FEDERAL GOVERNMENT, WITHIN ITS BOUNDARIES, WHEREBY PROHIBITING POLITICAL, CULTURAL, AND ECONOMIC GENOCIDE:

NOW, THEREFORE BE IT RESOLVED THAT THE WESTERN SHOSHONES, ACTING BY AND UNDER THEIR INHERENT AND UNEXTINGUISHED INDIGENOUS ABORIGINAL SOVEREIGN TITLES AND RIGHTS, ASSERT THEIR SOVEREIGN AUTHORITY THROUGHOUT THEIR TRADITIONAL SOVEREIGN TERRITORIES, TO INCLUDE (BUT NOT LIMITED TO) SUCH WESTERN SHOSHONE LANDS AS DESCRIBED IN ARTICLE V OF THE 1863 TREATY OF RUBY VALLEY, AND AS EVIDENCED BY THE WESTERN SHOSHONE NATIONAL COUNCIL'S MAP OF WESTERN SHOSHONE LANDS, AND AS DESCRIBED BY UNITED STATES TOWNSHIP, RANGE, AND SECTION DOCUMENTS (APPENDIX A, B, AND C, ATTACHED), AND,

BE IT FURTHER RESOLVED THAT THE WESTERN SHOSHONES RECOGNIZE THEIR INHERENT AND TRADITIONAL RIGHT TO SELF-GOVERNMENT, AND FURTHER AFFIRM WITH FULL/PLENARY POWERS, TO PROTECT AND SECURE THEIR INHERENT UNEXTINGUISHED RIGHTS AND TITLES PURSUANT TO CUSTOMS OF RELIGION, ECONOMICS AND POLITICS, PURSUANT TO INTERNATIONAL LAWS, AND UNITED NATIONS DECLARATIONS AND COVENANTS, AND,

BE IT FURTHER RESOLVED THAT THE WESTERN SHOSHONES ASSERT THEIR SOVEREIGN JURISDICTION AND FULL PLENARY AUTHORITY AND DECLARE THAT ANY INTERFERENCE WITH THAT JURISDICTION WITHOUT THE CONSENT OF THE W.S.N.C. OF THE WESTERN SHOSHONE NATION, TO BE IN DIRECT VIOLATION OF THEIR INHERENT RIGHT TO GOVERN, AND,

BE IT FURTHER RESOLVED THAT THE WESTERN SHOSHONES, ADOPT INTO THEIR CHARTER FOR SELF-GOVERNMENT, THE UNITED NATIONS DECLARATIONS AND CONVENTIONS, AND,

BE IT FINALLY RESOLVED THAT THE WESTERN SHOSHONES AS DESCENDANTS WITH UNDIVIDED INTEREST TO THE WESTERN SHOSHONE NATION DECLARE AND RECOGNIZE THE ASSERTIONS OF OTHER INDIGENOUS ABORIGINAL SOVEREIGN NATIONS AND THEIR RESPECTIVE NON-COLONIAL GOVERNMENTAL ORGANIZATIONS AS VALID, SO LONG AS THOSE ORGANIZATIONS DO NOT UNDERMINE THE PRINCIPLES OF INDIVIDUAL SOVEREIGN HUMAN RIGHTS, AND THE RIGHTS OF WESTERN SHOSHONES TO EFFECT INSTITUTIONS WITHIN THE WESTERN SHOSHONE NATION.

APPENDIX A

ARTICLE V, 1863 TREATY OF RUBY VALLEY

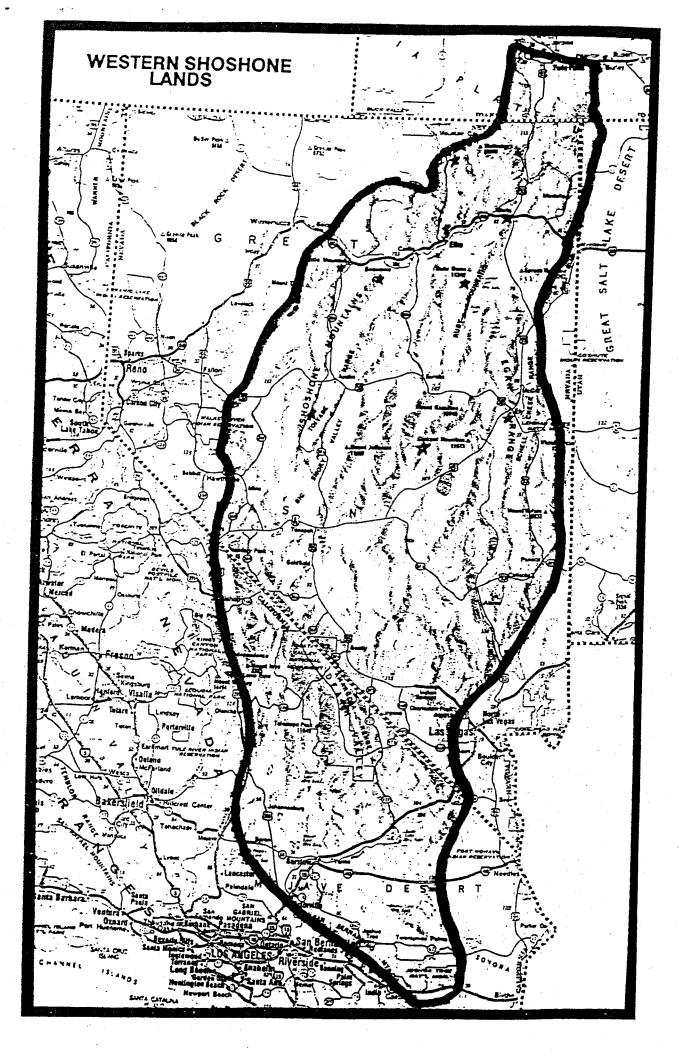
IT IS UNDERSTOOD THAT THE BOUNDARIES OF THE COUNTRY CLAIMED AND OCCUPIED BY SAID BANDS ARE DEFINED AND DESCRIBED BY THEM AS FOLLOWS:

ON THE NORTH BY WONG-GOGU-DA MOUNTAINS AND SHOSHONEE RIVER VALLEY,

ON THE WEST BY SU-NON-TO-YAH MOUNTAINS OR SMITH CREEK MOUNTAINS;

ON THE SOUTH BY WI-CO-BAH AND THE COLORADO DESERT;

ON THE EAST BY PO-HO-NO-BE VALLEY OR STEPTOE VALLEY AND GREAT SALT LAKE VALLEY.



WESTERN SHOSHONE NATION DECLARATION OF A NUCLEAR FREE ZONE

(95-WSNC-01)

WHEREAS. The people of the Western Shoshone Nation find the presence radioactive materials, nuclear power facilities and nuclear weapons facilities within the lands, the watershed or airshed of the lands of the Western Shoshone Nation, known in the Shoshone language as Newe Sogobia, as set forth in the Treaty of Ruby Valley of 1863, to be in conflict with the maintenance of the community's economic well-being, health, and general welfare, and,

WHEREAS. Nuclear weapons testing by the United States government on Western Shoshone lands, is in direct conflict with Western Shoshone National Council law and policy, has left portions of Newe Sogobia scarred and permanently contaminated with radiation; and,

WHEREAS. The aforementioned nuclear weapons testing by the United States government on Western Shoshone lands has already caused widespread cancer, bringing illness and death to Western Shoshone, members of other Indian nations, and the non-Indian people of the Great Basin region, and,

WHEREAS. The United States government continues to contaminate Western Shoshone lands at the Nevada Test Site by importing and, dumping, radioactively and chemically contaminated soil and other waste products; and,

WHEREAS. The United States Geological Survey has found that the aquifer under the Beatty radioactive waste dump site is about to become contaminated with long-lived radionuclides, endangering drinking water on Western Shoshone lands; and,

WHEREAS. The government of the United States, against the expressed wishes of the Western Shoshone National Council, is proposing to store highly-irradiated fuel from commercial nuclear power plants, which will remain deadly for hundreds of thousands of years, at Yucca Mountain, within Western Shoshone lands; and,

WHEREAS. A high volume of truck transportation of radioactive wastes can be expected through the Western Shoshone Nation's lands and the surrounding region, increasing the likelihood of an accident and the rapid dispersal to the environment of deadly, long-lived radioactive wastes; and,

WHEREAS. The presence of radioactive waste dumps in the region, and the publicity surrounding it, will severely harm the economy of the Western Shoshone and neighboring peoples; and,

WHEREAS. Over 4,500 local communities throughout the world, 25 nations; and the regions of the Antarctic, Latin America and the South Pacific have been declared nuclear free zones; and,

WHEREAS. The National Council of the Western Shoshone encourages the development of clean, renewable energy resources in order to create jobs that maintain the traditional Native American values of care-taking and balance with natural creation; and,

WHEREAS, The National Council of the Western Shoshone encourages research into radioactive waste neutralization techniques and demands the stabilization and or clean up, if possible, of existing radioactive waste on the lands of the Western Shoshone Nation;

NOW. THEREFORE

SECTION 1. BE IT ORDAINED BY THE WESTERN SHOSHONE NATIONAL COUNCIL, That the following declaration be added to and made a part of the laws of the Western Shoshone Nation:

NUCLEAR FREE ZONE DEFINITIONS

FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING DEFINITIONS APPLY:

"RADIOACTIVE MATERIALS" ARE ANY RADIOACTIVE WASTE PRODUCTS OR MATERIALS GENERATED, REFINED OR MADE RADIOACTIVE BY ANY UNITED STATES GOVERNMENT AGENCY OR PURSUANT TO FEDERAL OR STATE GOVERNMENT CONTRACT OR LICENSE. AND INCLUDING THAT WHICH THE UNITED STATES NUCLEAR REGULATORY COMMISSION CLASSIFIED AS LOW-LEVEL RADIOACTIVE WASTE AS OF JANUARY 1, 1989, BUT WHICH MAY BE CLASSIFIED AS BELOW REGULATORY CONCERN WASTE AFTER THAT DATE.

"NUCLEAR WEAPON" IS ANY DEVICE, THE PURPOSES OF WHICH IS THE USE AS A WEAPON, A WEAPON PROTOTYPE, OR A WEAPON TEST DEVICE, THE INTENDED DETONATION OF WHICH RESULTS FROM THE ENERGY RELEASED BY FISSION AND/OR FUSION REACTIONS INVOLVING ATOMIC NUCLEI.

"NUCLEAR WEAPON" INCLUDES THE WEAPON'S GUIDANCE AND PROPULSION SYSTEM AND TRIGGERING MECHANISM, I.E., THE MEANS OF TRANSPORTING, GUIDING, PROPELLING, TRIGGERING, OR DETONATING THE WEAPON, PROVIDED THAT SUCH MEANS IS DESTROYED OR RENDERED USELESS IN THE NORMAL TRANSPORTING, PROPELLING, TRIGGERING, OR DETONATION OF THE WEAPON.

"PERSON" MEANS A NATURAL PERSON, AS WELL AS A CORPORATION, INSTITUTION, OR OTHER ENTITY.

PROHIBITION OF STORAGE, USE OR DISPOSAL OF RADIOACTIVE MATERIALS

EXCEPT AS SPECIFICALLY EXEMPTED IN THIS ARTICLE, NO PERSON SHALL IMPORT, STORE, INCINERATE, TREAT, PROCESS, OR DISPOSE OF RADIOACTIVE MATERIALS, FOR ANY PURPOSE, WITHIN THE LANDS OF THE WESTERN SHOSHONE NATION, OR WITHIN LAND FILLS OR INCINERATORS OWNED OR LICENSED BY THE WESTERN SHOSHONE NATION.

PROHIBITION OF NUCLEAR WEAPONS WORK

NO PERSON SHALL KNOWINGLY, WITHIN THE LANDS OF THE WESTERN SHOSHONE NATION. DESIGN, TEST, PRODUCE, LAUNCH, MAINTAIN, OR STORE NUCLEAR WEAPONS OR COMPONENTS OF NUCLEAR WEAPONS.

PROHIBITION OF NUCLEAR REACTORS

NO PERSON SHALL CONSTRUCT, OPERATE, A NUCLEAR REACTOR WITHIN THE LANDS OF THE WESTERN SHOSHONE NATION.

PROHIBITION OF URANIUM AND MILLING

NO PERSON SHALL CONSTRUCT OR OPERATE A URANIUM MINE OR MILLING OPERATION WITHIN THE LANDS OF THE WESTER SHOSHONE NATION.

MIGRATION OF RADIOACTIVE MATERIALS

NO PERSON OR OTHER NATION SHALL ALLOW THE MIGRATION OF RADIOACTIVE MATERIALS FROM NEIGHBORING LANDS INTO THE LANDS OF THE WESTERN SHOSHONE NATION.

NUCLEAR FREE ZONE SIGNS

THE WESTERN SHOSHONE NATIONAL COUNCIL SHALL POST AND MAINTAIN APPROPRIATE SIGNS AT ALL RECOGNIZED ENTRANCES TO THE LANDS OF THE WESTERN SHOSHONE NATION, AT ENTRANCES TO THE YUCCA MOUNTAIN FACILITY AND THE NEVADA NUCLEAR TEST SITE, AND THE NATIONAL COUNCIL OFFICE IN CACTUS SPRINGS, PROCLAIMING THE WESTERN SHOSHONE NATION'S STATUS AS A NUCLEAR FREE ZONE.

ENFORCEMENT

EACH VIOLATION OF THIS SECTION SHALL BE PUNISHABLE BY A \$1,000,000 FINE. EACH DAY OF VIOLATION SHALL BE DEEMED A SEPARATE VIOLATION. ENFORCEMENT WILL BE BY A DULY AUTHORIZED AGENT OF THE WESTERN SHOSHONE NATION.

THIS DECLARATION IS HEREBY ENACTED ON THIS 2ND DAY OF DECEMBER, 1995 BY CONSENSUS OF THE WESTERN SHOSHONE NATIONAL COUNCIL.

Baymond D. Gowell

RAYMOND D. YOWELL, CHIEF

ATTACHMENTS: BOUNDARY DESCRIPTION AND MAP OF NEWE SOGOBIA AS DEFINED BY THE WESTERN SHOSHONE NATIONAL COUNCIL.

5th ANNUAL YUCCA MOUNTAIN SPRING GATHERING

April 13th, 14, & 15th, 2001



Greetings to all,

In keeping with tribal custom, the Western Shoshone National Council is hosting a traditional gathering on the westside of Yucca Mountain. This is an inter-tribal gathering open to all Native Nations. This years gathering theme is, "Maintaining traditional tribal customs." It is the hope of the Western Shoshone National Council that you, your family, and your community will come and together with the Western Shoshone Nation celebrate the renewal of life.

Special events will include presenters on tribal history, language, sovereignty, tribal citizenship, tribal custom, tribal law, and radiation basics. Additionally, tribal dancers will grace us with their presence, and special gifts will be given away in a free raffle. Indian hand-game tournament will be played beginning Saturday afternoon with \$500 in prize money to the winners. Yucca Mountain is located in south central Newe Sogobia 30 miles west of Beatty. We will feed all gathering participants. Ceremonies will be conducted by the several Newe Spiritual Leaders attending. Travel stipends will be available for those traveling in groups.

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Comments of the

Western Shoshone National Council

on the

Possible Recommendation

of a

Proposed High Level Nuclear Waste Repository

at

Yucca Mountain

September 5, 2001



Western Shoshone National Council P.O. Box 210 Indian Springs, NV 89018 NEWE SOGOBIA

Dr. K. Lowler

Good Evening. My name is John Wells. I am here tonight delivering comments on behalf of the Western Shoshone National Council.

The Western Shoshone Nation believes that the Preliminary Site Suitability Evaluation and all documents produced to date are deficient. The Western Shoshone Nation has a fundamental problem with the DOE's disregard for the proper role of Native American nations based on our inherent sovereignty, historical relations, international treaties, and the US constitution. All to often consultation is consisting of brief conversations with individuals from a Native American community after decisions are made and policy is employed. The cultural differences needed to be resolved by the DOE are at least as serious and difficult to deal with as they were 200 years ago.

The Western Shoshone government understands the intended approach by the DOE to solving the problem of high level nuclear waste is to use science not politics. Science is intended to provide knowledge to inform politicians in the creation of policy. However, it is politics that directs and funds the efforts of the DOE. And so, today we are here to address both the politics and science before the Secretary of Energy decides to recommend Yucca Mountain to the President.

The DOE claims it is following the direction of Congress under the Nuclear Waste Policy Act. We are sure that Congress appreciates the Administrations unwavering loyalty to congressional legislation. However, our view is that the rights, responsibilities, and duties of Americans, including Members of Congress, is unambiguously defined by the Constitution.

Constitutional authority and prohibition against alienation of title to Western Shoshone property interests exists in the following documents:

The Northwest Territorial Ordinance of 1787, "The utmost good faith shall always be observed toward the Indians: their lands and property shall never be taken from them without their consent; and in their property rights and liberty they shall never be invaded or disturbed."

US Constitution, Article VI, paragraph II, "This Constitution and laws of the US which shall be made in pursuance thereof and all treaties made, or which shall be made, under the authority of the US shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding."

Treaty of Guadeloupe Hidalgo 1848, 9 Statute 922, "Special care shall be taken" against "those invasions (against the Indians) which the United States have solemnly obliged themselves to restrain."

Act of Congress Organizing the Territory of Nevada 1861, "...Providing that nothing in this Act contained shall be construed to impair the rights or property now pertaining to the Indians in said territory, so long as such rights shall remain unextinguished by treaty between the US and the Indians."

Treaty of Ruby Valley 1863, "Treaty of Peace and Friendship."

As for the scientific process, the Western Shoshone government finds it limiting. This hearing tonight is limited by obtaining information from a small number of communities in the vicinity of Yucca Mountain. Due to the limited notice of these hearings and the focus by the DOE of holding hearing in the vicinity of Yucca Mountain many Western Shoshone communities are unable to provide testimony here today. We believe that the DOE does not want to know the truth. But we will tell you the truth that has caused serious harm to our society. Truth is relevant. And for the DOE their truth is from an origin in a culture of secrecy.

 The DOE has created a consolidated group of tribes to act on behalf of Native Americans instead of the elected tribal government;

- The DOL has appointed its own subcontractors, former employees and paid others as pare of this consolidated group of tribes,
- The DOE has developed "cultural triage," a study protocol to deliberately destroy our living culture in pursuance of its intended development:
- The DOE has poisoned or lands with 828 underground nuclear weapons tests;
- The DOE has killed our people with fallout from 105 aboveground weapons tests: To understand the geology of Yucca Mountain the DOE has only to look at the

underground test area to understand how the existing radiation in the soil and

groundwater will act.
The DOE nuclear legacy of widespread radioactive contamination must be considered. We are already aware that the DOE has contaminated the groundwater at the Nevada Test Site. We need to know where the plume(s) are; what the groundwater flow is, how the radiation is transported; and what the lifestyles are of those who consume the water. The public has a need and right to know what the extent of the present contamination is and whether they are at risk from present contamination for which the DOE is responsible,

The DOE develops consequence scenarios of radiation exposure isolated from the true real world past exposure of our people and the probable risks to our communities from a

radiation release in transport or on site.

For the Western Shoshone Nation our truth is that of a proud ancient people who have existed in the Great Basin for 1000 generations. We have fought wars against invaders to our territory and in 1863 allied ourselves with the United States by treaty emanating from international law, the Treaty of Ruby Valley. We were not conquered by the United States. Our property was not taken by the United States. We did not sell our property to the United States. And we were never put on a reservation. We are today, as we always have been, a free people with our own aspirations for growth and development. We wish to follow our dreams and aspirations and not have our lives and that of our future generations cut short by radioactive contamination.

Our experience with nuclear hazards is as victims, advocates and now as scientists. We have experienced the adverse health, social, and economic effects of radioactive contamination downwind from the Nevada Test Site. Our unfortunate experience as downwind victims informs our policy against the proposed high level nuclear waste repository at Yucca Mountain no matter how much has been spent.

As victims we live with the stigma of past radiation exposure that has not been considered

Cumulative health effects are not considered by the DOE;

The DOE is trespassing on Western Shoshone Treaty lands, paying nothing for the use of Western Shoshone property,

The burden for United States nuclear development is being paid by the Western Shoshone

Nation:

Benefits such as grants equal to taxes, jobs, research grants, and knowledge pass over the Western Shoshone people to non-native communities and contractors;

We believe institutional racism conceived long ago to be an ongoing policy of the DOE;

Environmental Justice is a new concept developed to address the past inequities of government development. We are not waiting for the DOE to employ environmental Justice principles, we will just state the facts as they are... the DOE practices environmental racism, and we are the victims of that racism here in the Great Basin;

Democracy is the best form of government on earth. It is good for electing leaders, but not for deciding who you will dump nuclear waste upon. The failure of the DOE is a failure of United States nuclear waste policy.

These comments are provided on the by inherent government authority of the Western Shoshone National Council as the legitimate protector of the rights and interests of the Western Shoshone people to ensure that Western Shoshone public health, safety and property are protected because United States law provides too little protection for the Western Shoshone people.

APPENDIX II: MATERIALS SUBMITTED BY TRIBES, 2001

Attachement 2: Duckwater Shoshone Tribe

RESOLUTION OF THE GOVERNING BODY OF THE DUCKWATER SHOSHONE TRIBE

RESOLUTION NO: 88-D-22

- WHEREAS, the Duckwater Shoshone Tribe is organized under the provisions of the Indian Reorganization Act of June 18, 1934, as amended, to exercise certain rights of home rule and be responsible for the general welfare of its membership; and
- WHEREAS, the Treaty of Ruby Valley defines Western Shoshone Ancestral
 Territory and clearly defines specific activities authorized by Western Shoshone Representatives; and
- WHEREAS. the United States proposed to develop a program for the disposal of high level radioactive waste within Western Shoshone Ancestrial Territory and is not expressly authorized by and through the Treaty of Ruby Valley to do so; and
- WHEREAS, there is a clear and present consequence of great harm that the effects of accidents from the transportation and handling of high-level radioactive waste can cause damage to the Earth and all forms of life; and
- WHEREAS, the Duckwater Shoshone Tribe has rights, responsibilities, and duties to protect the Earth, and all life within the Western Shoshone Ancestrial Territory consistent with religious tradition.
- NOW THEREFORE BE IT RESOLVED THAT, the Duckwater Shoshone Tribe is hereby adamantly opposed to the development of any United States program designed to dispose of high-level radioactive waste within the Western Shoshone Ancestrial Territory. Current United States Department of Energy High-level radioactive waste program activities are in violation of the Treaty of Ruby Valley and the United States must therefore immediately cease all high-level radioactive waste program activities relating to siting of a repository in the Western Shoshone Ancestrial Territory.

C-E-R-T-I-F-I-C-A-T-I-O-N

I, the undersigned, as Chairman of the Duckwater Shoshone Tribe do hereby certify that the Duckwater Tribal Council is composed of 5 members of whom 5 constituting a quorum were present at a meeting duly held on the 20th day of April, 1988, and that the foregoing resolution was duly adopted and approved by an affirmative vote of 4 FOR, O AGAINST and O ABSTENTION: Pursuant to the authority contained under Article VI, Section I of our Constitution and By-Laws approved November 28, 1940.

Jerry Millett, Chairman Dyckwater Shoshone Tribe

RESOLUTION NO: 88-D-22

Boyd Graham Inbal Chairman

Steven Mike Vice-Chairman

Kelth Honaker Secretary

Irwin Watson Member

Tony Baca Member

Duckwater Shoshone Tribe

P.O. Box 140068 Duckwater, Nevada 89314 (702) 863-0227 FAX (702) 863-0301 Jerry Millett Inbal Manager

Timothy Thompson
Admin Assistant

Roberta Thompson Finance Director

> Shelley Lupe Secretary

Mary Lou Moyle Health Director

RESOLUTION OF THE GOVERNING BODY OF THE DUCKWATER SHOSHONE TRIBE

RESOLUTION NO: 95-D-20

- whereas, the Duckwater Shoshone Tribe is organized under the provisions of the Indian Reorganization Act of June 18, 1934, (48 Stat. 594), as amended to exercise certain rights of homerule and be responsible for the general welfare of its membership; and
- WHEREAS, Indian tribes are sovereign nations and the Duckwater Shoshone Tribe has the right to control its own destiny through a government-to-government relationship with the United States; and,
- whereas, the federal government and the Department of Energy have a fiduciary duty to preserve, protect and perpetrate the rights and resources of Indian nations and tribal governments; and,
- whereas, State of Nevada documents show that radioactive waste will be transported through the Duckwater Shoshone Territory by 1998 if Senate Bill 167 or similar legislation be enacted this year by the Congress; and
- WHEREAS, S. 167 effectively eliminates any opportunity for the Duckwater Shoshone Tribe and other tribes to participate in any oversight of Yucca Mountain site characterization or the related transportation of high level waste to that site; and,
- whereas, the Duckwater Shoshone Tribe does not have adequately trained or equipped emergency response personnel ready to deal with the type of radiological disaster that could occur as a result of radioactive waste transportation through the Duckwater Shoshone Territory; and,
- whereas, the federal government under Senate Bill 167 or similar legislation will not provide funding to the Duckwater Shoshone Tribe for the training and equipping of radiological emergency response personnel; and,

RESOLUTION NO: 95-D-20

PAGE TWO

- WHEREAS, transporting radioactive waste to an "interim" site at Yucca Mountain, Nevada, only hides and does not solve the United States' radioactive waste problem; and,
- whereas, the Duckwater Shoshone people oppose radioactive waste transportation through their ancestral lands; and,
- WHEREAS, the ancestral lands of the Duckwater Shoshone Tribe have been declared to be a nuclear-free zone.
- THEREFORE BE IT RESOLVED, that the Duckwater Shoshone Tribe opposes Senate Bill 167 and all similar legislation which would require radioactive waste transportation near or through the Tribe's ancestral lands;
- BE IT FURTHER RESOLVED, that the Duckwater Shoshone Tribe opposes any legislation which is imposed on the Tribe without Tribal consultation and involvement; and,
- BE IT FURTHER RESOLVED, that the Duckwater Shoshone Tribe supports the creation of an independent Presidential commission to re-examine the United States' policy on radioactive waste.

C-E-R-T-I-F-I-C-A-T-I-O-N

I, the undersigned, as Chairman of the Duckwater Tribal Council do hereby certify that the Duckwater Tribal Council is composed of five members of whom _4 _ constituting a quorum were present at a meeting duly held on the 6th day of March, 1995, and that the foregoing resolution was duly adopted and approved by an affirmative vote of _ 3 _ FOR, _0 _ AGAINST, _ 1 _ Abstention: Pursuant to the authority contained under Article VI, Section I of our Constitution and By-Laws approved November 28, 1940.

Boyd Graham, Chairman

RESOLUTION: 95-D-20

APPENDIX II: MATERIALS SUBMITTED BY TRIBES, 2001

Attachment 3: Te-Moak Tribe of Western Shoshone Indians



525 Sunset Street - Elko. Nevada 89801 (702) 738-9251 FAX (702) 738-2345

Te-Moak Tribe of Western Shoshone Indians of Nevada

Environmental Assessment

Prepared and Submitted by Helen Dave

Environmental Assessment for the Te-Moak Tribe of Western Shoshone Indians of Nevada

This Assessment shall be for the protection of the Western Shoshone Natural and Cultural Resources within their aboriginal territory. This assessment could also identify a long-range plan for the Tribes Environment Department Protection Plan.

The general purpose is for the Te-Moak General Assistance Program to identify sites and GPS the locations of the Traditional Western Shoshone Indians natural and cultural resources. Staff will keep the Tribal Council abreast of the activities within the GAP program and request approval as needed.

This assessment shall include but not limited to the four Band Areas within the Jurisdiction of the Te-Moak Tribe.

Jurisdiction:

The Te-Moak Tribe of Western Shoshone Indians of Nevada is a federally recognized Tribe with four constitute Band namely the Battle Mountain Band, Elko Band, South Fork Band and the Wells Band. The Tribe has one constitution which was adopted in 1982.

The Te-Moak Tribal Office is located in Elko, Nevada at 525 Sunset Street on the Elko Indian Colony. The Battle Mountain Indian Colony is located at 35 Mountain View Drive in Battle Mountain, Nevada and is 75 miles Southwest of Elko. The Elko Indian Colony is in the Northeastern part of Nevada in the City of Elko. The South Fork Band is located 30 miles South of Elko at the foot hill of the Ruby Mountains. The Wells Indian Colony is located 50 miles West of Elko on the outskirts of the City of Wells, Nevada.

The land that the Bands are located on are held in trust for the Te-Moak Tribe of Western Shoshone Indians of Nevada. The Western Shoshone does not have a Reservation and therefore considers their aboriginal territory as their land. The Western Shoshone has not yet received any claim settlement for their land.

General Assistance Programs:

Each Band Areas have contracted with the Department of Environmental Protection Agency Region IX area for their own General Assistance Program (GAP). Their focus is directly involving their band area.

The primary function for the Te-Moak GAP Program is to identify and document the traditional culture and natural resources of the Western Shoshone Indians. Staff will GPS, photograph and record the sites, that is significant to the traditional Western Shoshone. The equipment purchase will be used to the fullest extent and short stories will be added to the sites and recorded at the Te-Moak GAP Office and there will be restriction of data sharing with the public or general public.

Cultural Sites:

This will include protection for the traditional, archaeological and historical site of the Western Shoshone Indians of Nevada. Which will include camp sites, hunting sites, gathering sites, spiritual sites, burial sites, all artifacts that are on or unearthed by any person, mines, miners, or by construction.

This will identify the areas with in our aboriginal territory. Documentation is the key to the protection of the traditional and cultural sites as well as the sensitive sites.

Natural Resources:

All natural resources are important to the Western Shoshone whether it be on top of the earth or underneath the earth. Water, Air and our Land is important to all living creatures, and we must protect it.

This will also include the protection of the forest, (pinenut trees) wildlife, (birds and animals) rivers, lakes, Hot holes, natural springs, willows, medicine plants, air water, groundwater and roots.

De-Watering:

This will identify the impact the de-watering is having on our natural springs, hot holes and plant life. What impact the de-watering is causing, and provide the tribe with information on de-watering.

Mines:

This will include mapping and documenting the mines within our aboriginal territory.

To provide information to the Tribe of mines sites and proposed expansions with their project plans. Will GPS the mine sites and their locations. With this documentation it will provide the tribe with the knowledge and location of drill sites and proposed drill sites.

Will work closely with the Government agencies on the de-watering, mines applications, land exchanges with private entities and any other land negotiations that will effect the Western Shoshone.

APPENDIX II: MATERIALS SUBMITTED BY TRIBES, 2001

Attachment 4: South Fork Band Council

SOUTH FORK INDIAN RESERVATION

CHEMICAL EMERGENCY RESPONSE NOTIFICATION PLAN 1999

SOUTH FORK BAND COUNCIL

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LETTER OF PROMULGATION

Recognizing its responsibility for the safety and welfare of its members, residents, property, wildlife, and environment, the Band Council of the South Fork Reservation does hereby authorize and endorse the development and preparation of this Chemical Emergency response Notification Plan.

This plan provides the basis for conducting emergency notifications within the boundaries of the Reservation and to any and all appropriate response agencies outside the Reservation that may be involved with any response agreements, verbal or written.

This plan is intended as a preparedness document and should be read and understood prior to any emergency. It will be reviewed and updated annually to ensure its accuracy.

The Band Council of the South Fork Reservation has adopted and approved this document and its effective date as of

Marvin McDade, Chairman South Fork Band Council

Wilfred Brady, Vice-Chairman South Fork Band Council

RESOLUTION OF THE GOVERNING BODY OF THE SOUTH FORK BAND COUNCIL

Resolution No. 99-SF-16

BE IT RESOLVED BY THE SOUTH BAND COUNCIL,

- WHEREAS, this is a constituent Band known as the South Fork Band Council defined by the Indian Reorganization Act of June 18, 1934, as amended and operates and functions in accordance with the Constitution of the Te-moak Tribe of Western Shoshone Indians of Nevada, approved on August 26, 1982, and,
- WHEREAS, The South Fork Band Council, the governing body of the South Fork Indian Reservation, to exercise certain rights of home rule and to promote education and vocational training of it's Tribal members, and,
- WHEREAS, The South Fork Band Council hereby recognizes the responsibility for the safety and welfare of its members, resident's property, wildlife and environment of the South Fork Indian Reservation, and,
- WHEREAS, the South Fork Band Council does hereby authorize and promotes the development and preparation of this Emergency Notification Plan for South Fork Indian Reservation and agree to aptly respond accordingly, and,
- WHEREAS, This plan is for emergency notification and will be reviewed and updated annually to ensure its accuracy.
- NOW THEREFORE BE IT RESOLVED, that the South Fork Band Council hereby approves this plan for the protection of the South Fork Indian Reservation and it's members and residents and their property and the environment as well as their natural and cultural resources.



C-E-R-T-I-F-I-C-A-T-I-O-N

I, the undersigned as Chairman of the South Fork Band Council do hereby certify South Fork Band Council is composed of 7 members, of whom 4 constituting a quorum were present at a duly held meeting on the Orlay of December 1999, and that the foregoing was duly adopted at such meeting by a vote of: 4 for, ______ against, _____ abstained, pursuant to: Article 4, Section 12 (a) and (b) and Section 3 of the Constitution of the Te-Moak Tribe of Western Shoshones of Nevada.

Marvin McDade, Chairman South Fork Band Council

ATTEST:

Recording Secretary

SOUTH FORK RESERVATION CHEMICAL EMERGENCY RESPONSE NOTIFICATION PLAN

I. PURPOSE OF THE PLAN

Purpose of emergency planning is to create a system for protecting, (1) lives, (2) the environment, (3) property, (4) wildlife, and (5) other resources before and during a chemical response emergency, disaster or the discovery of a spill or dumping of any hazardous material that could impact the South Fork Reservation and/or neighboring jurisdictions. This is done by identifying potential problems, identifying the resources available, and deciding how to best use those resources and obtain additional assistance when necessary.

II. DESCRIPTION OF THE SOUTH FORK RESERVATION

The South Fork Reservation consists of 13,049.5 acres of trust lands for the Western Shoshone of the Te-Moak Tribe. These lands are located in Elko County, 30 miles from the town of Elko, Nevada.

The vulnerable or sensitive establishments on the Reservation are the South Fork Tribal Community/Administration Building, the homes of elderly and tribal members who may be sick or incapacitated at any given time.

In the event where evacuation might be necessary, the facility that could be used as a shelter would be the South Fork Tribal Community/Administration Building. The size of the building could accommodate approximately 100 people. The facility is located in the middle of the Reservation. It is accessible in any direction(s) traveled.

In case other evacuation sites are needed the Red Cross has designated sites as needed.

The South Fork Indian Reservation is accessible off of SR 228 (the Jiggs highway), turn left off of SR228 travel about 5-6 miles on the blacktop road til the pavement ends. The road turns into a graveled road continue on that road for about a mile. The Tribal administration office is on the right.

III. OVERVIEW OF HAZARDOUS MATERIALS (HAZMAT) EMERGENCIES

A hazardous material has several definitions depending on the use of the information or the user but could be mainly described as "any substance or mixture of substances which is toxic, corrosive, flammable, or reactive" and "can cause substantial injury, serious illness or harm to humans, domestic livestock, wildlife, or the environment. For planning purposes, the term also includes hazardous waste. Hazardous substances are commonly used in industry, agriculture and laboratories.

Because of many the many chemicals, compounds and uses of hazardous materials, hazardous material emergency responders need different types of training for the different levels of specialists and technicians. It is therefore important to know the capabilities of the nearest HazMat team in your area or, at least, be aware of the person or entity in your area that does know. This is usually the nearest State office of Emergency Service, local fire department or law enforcement agency.

Emergencies caused by hazardous materials are called HazMat incidents or spills. They include any HazMat releases to the water, ground or air which pose a threat to public health or the environment. Some examples of Hazmat incidents which could occur on the South Fork Indian reservation are:

- 1) Transportation accidents on SR 228, in the nearby town of Spring Creek, an accident could involve one of the propane trucks making deliveries on the Reservation, and along I-80 in the city of Elko, (i.e. Trucks transporting chemicals to the mines south of Jiggs, some of these trucks carry Cyanide, Chlorine and other toxic chemicals.
- 2) Illegal dumping- As the requirements and regulations governing the handling of hazardous substances continue to increase, the incidents of illegal dumping will continue to increase and the usual remoteness of the SFIR will/could attract illegal dumpers.
- 3) Illegal drug labs and their by-products- Mobile homes and recreational vehicles are used as labs and their mobility afford their needed secrecy. Again, remoteness and isolation of the SFIR adds a tempting element for illegal activity.
- 4) Commercial and industrial spills or accidents within nearby towns/cities that would/could impact the SFIR.
- 5) Agricultural spills or accidents.
- 6) Oil spills which may threaten or impact water such as: leaking oil storage tanks (including gasoline or diesel) and associated piping, and spills from tanker trucks



7) Possible transformer(s) being hit by lightning causing fire and/or exploding and releasing PCB's that can cause a great deal of harm to the environment. PCB's are known to cause cancer.

IV. IN CASE OF A HAZARDOUS MATERIAL EMERGENCY

A. ROLES AND RESPONSIBILITIES

The South Fork Band Council has the primary responsibility for the protection of the South Fork Indian Reservation (SFIR) residents by means of emergency preparedness and response activities. When an emergency exceeds the Band's ability to respond, assistance is requested from others, such as the nearby jurisdictions and/or the federal government.

- 1) Emergency Director- Usually, the Band Chairperson or designee provides overall management and directs and controls the tribal response to the emergency. The emergency director shall assume the following responsibilities:
- Activate this plan and any other applicable emergency plans at the outset of the emergency and deactivate it at the end of the emergency;
- Ensure that the proper notification calls have been made by the designated tribal notification person;
- Provide leadership and make executive decisions;
- Determine priorities, schedules, and strategies;
- Monitor outside resource agency activities;
- Plan ahead, past the immediate response activities;
- Provide information to the Band Council;
- Ensure documentation of all expenditures and resource use;
- Designate a single person to communicate with the media- this person is usually called the "Public Information Officer" (PIO);
- Oversee other communication:
- Coordinate awareness of outside response resource agencies that come on to the SFIR.
- 2) Designated Notifier- A primary need is the designation of the Tribal person who will be responsible for actually making the notification calls to the appropriate response agencies.

On the SOUTH FORK INDIAN RESERVATION the designated
otifier is the
If this individual is not available, then the
assumes the responsibility.

To ensure that the appropriate response agencies are contacted, a Chemical Emergency Notification Plan should be developed with current names and contact numbers listed in the order of priority and sequence in which the calls should be made. A pull out copy for



quick and ready use should be placed on the inside cover of the planning document.

3) The Incident Command Center- The second designation that should be made is the actual facility housing the telephone lines that will be used when a chemical emergency is recognized. This facility is called the Incident Command Center.

On the SFIR,	the designated	Incident	Command	Center	is the
			buildi	ng.	

Emergency contact telephone numbers of appropriate tribal and Outside entities should be given to response entities prior to an Emergency.

- 4) Tribal Employees'- The following is a suggested procedure Concerning employees' responsibilities in times of a chemical emergency:
- Assist to meet the immediate needs of the people in terms of : rescue, medical care/transportation, food, water, shelter, clothing, etc.:
- Assist in the restoration of facilities, public or privately owned, that are essential to health, safety and welfare of the residents in terms of: sanitation, water, electricity, and road/street/highway repair, etc.;
- Meet the rehabilitation needs of the people in terms of: temporary housing, food stamps, employment, etc.;

Provide for the recovery of the community to, at least, its pre-emergency condition;

B. RESOURCES FOR CHEMICAL EMERGENCIES

In the event of a chemical emergency incident, contact the nearest HazMat Team who would contain and control the emergency situation with the manpower and equipment they normally use.

In addition, clean-up and hazardous material removal may need to be done as well. In any hazardous material incident, the party at fault causing the incident or identified as the responsible party for the incident, is ultimately responsible for all damages, including all expenses for clean-up and material removal. However, the tribe may need to pay for the damages and/or clean-up if the responsible party can not be determined. (For example, midnight hazardous material dumping).

The Band can apply for reimbursement of up to \$25,000 from the federal government for response and/or clean- up expenses within one year of the incident. It is important to have an accurate record and receipts of expenses to document a request for reimbursement.

There are certain requirements which must be met to be eligible for the reimbursement. One requirement is that the National Response Center or Regional EPA Emergency Response Center must be notified within 24 hours of the occurrence or discovery of the incident.

The 24 hour telephone number for the National Response Center is 1-800-424-8802.

The 24 hour telephone number for the Regional EPA Emergency Response Center is 1-800-744-2000.

The HazMat Team or local emergency responder can usually advise the South Fork Indian Reservation notifier of the nearest clean-up and removal company or companies. It would be best to investigate these companies prior to any incident occurring. For more information about reimbursement requirements and/or to request an application package call 1-800-431-9209.

Arrangements should be made ahead for the Band or responding agency (police or fire) to be responsible for alerting and warning the residents to evacuate, if the need arises. Arrangements should also be made to provide transportation for those residents without their own transportation and those residents who are disabled, sick, or elderly that may require extra assistance.

SOUTH FORK INDIAN RESERVATION CHEMICAL EMERGENCY NOTIFICATION PLAN

The primary need is the designation of the tribal person who will be responsible for actually making the notification calls to the appropriate response agencies.

	appropr	riate response agen	cies.	
	,	The designated no	otifier is	
		If this individual is	not available, then, assumes this	responsibility.
	names a a chemi should l	and telephone numb cal response emerg be notified internally	priority and sequential ers of response entitie ency as well as the trib 7. These numbers may ould be verified from time	es to call in case of cal entities that change at any
	made wi fire depa	ith the assistance of artment, or possibly	working, the notification the BIA Law enforcement a local ham radio own	nent, county sheriff er/operator.
40	GENCY/ORG	ANIZATION PE	RSON TO NOTIFY	TELEPHONE NO.
Dι	UTSIDE RES	PONSE AGENCIES:		
۱).	. Local emer	gency dispatcher	DISPATCHER	911
2).	. Respondin	g HazMat Team	Responding Person	
3).		esponse Center to be contacted with	Responding Person nin 24 Hours	1-800-424-8802
۱).	_	n IX Emergency nse Office	Responding Person	1-415-744-2000 24 hour line



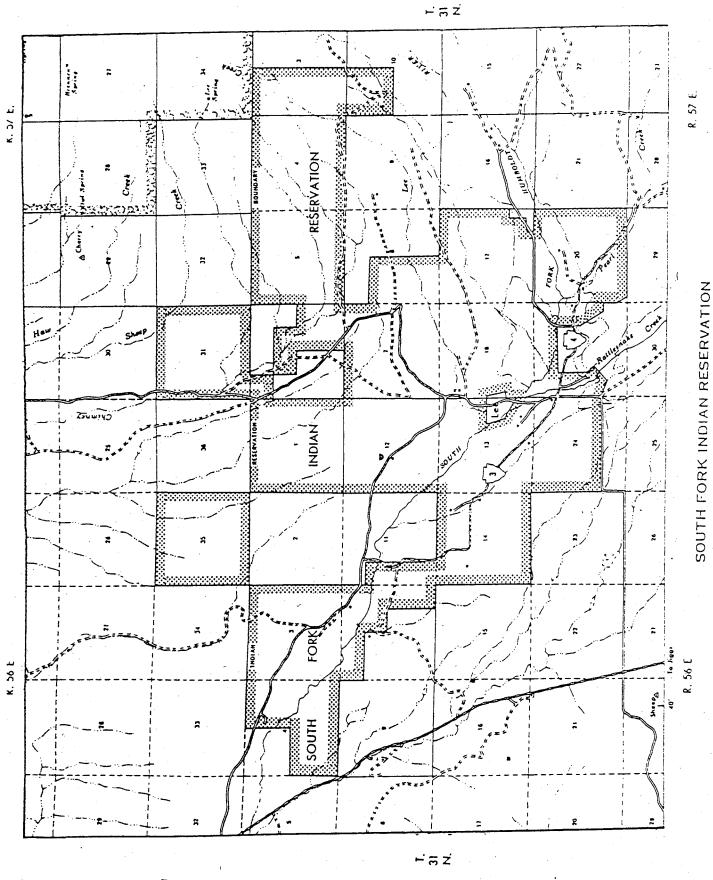
INTERNAL TRIBAL CONTACTS:

5). Chairperson Marvin McDade If not already contacted		Office: 744-4273 Home: 744-2343
6). SF Police Officer	Joe Martinez	Office: 744-2411 Home: 738-9637 Cell #: 934-7947
7). SF Environmental Office	Wayne Bill	Office: 744-2387
	Dallas Smales	Home: 744-4276 Office: 744-2387 Home: 744-4365
8). South Fork Volunteer FD	Harley Reynolds	Home: 744-4338
OTHER OUTSIDE CONTACTS,	IF NECESSARY:	
9). Elko General Hospital Emergency Room	Responding Person	ER: 738-5151
10). Local Poison Center	Responding Person	· ·
11). CHEMTREC	Responding Person	1-800-424-9300
12). Local Red Cross	Responding Person	753-9600
13). Nevada Division of Forestr	γ	911 or 738-5137
14). EPA Reimbursement Help Line	Responding Person	1-800-431-9209

INFORMATION YOU WILL NEED WHEN REPORTING AN INCIDENT

- Upon dispatch always approach from UPWIND, UPHILL, and UPSTREAM!!! Toxic
 materials may not be visible or present an odor minimize all exposures and do
 not allow yourself to become contaminated by driving to, through or in the area of
 an active release.
- If you discover a hazardous material or an unlabeled container and suspect it contains a hazardous material:
 - Do not remove the container or attempt to determine if full.
 - Retreat to an upwind, uphill, upstream position.
 - Isolate and deny entry.
 - Request the nearest HazMat Team.

Upon notification, attempt to confirm the folio	owina:
Material involved	
Quality Released	
Location of incident	
Best access route	
Command post location	
Name/radio Identifier of Incident Commander_	
Radio frequency at Command Post	5
Command Post/Incident Commander cell phone)
Causalities	
Dead	
Injured	
Missing	
Stranded	
Populated areas threatened	



COPY

APPENDIX II: MATERIALS SUBMITTED BY TRIBES, 2001

Attachment 5: Timbisha Shoshone Tribe

October 10, 2001

Carol Hanlon
U.S. Department of Energy
Yucca Mountain Site Characterization Office (M/S #25)
PO Box 30307
North Las Vegas, NV 89036-0307

RE: Timbisha Shoshone Tribe's Comments on the Yucca Mountain Preliminary Site Suitability Evaluation and Related Topics

Dear Ms. Hanlon:

These preliminary comments on the Department of Energy's *Yucca Mountain*Preliminary Site Suitability Evaluation are submitted by the Timbisha Shoshone Tribe.

A Tribal Resolution and additional comments regarding the Site Suitability Evaluation will be submitted before the October 19 deadline.

The following comments will address the unacceptable process for tribal (and public) input, and the *Yucca Mountain Preliminary Site Suitability Evaluation* document itself.

(1) Comments on the process for tribal (and public) input

As has been stated before, the Yucca Mountain project is illegally being proposed on Western Shoshone lands without Western Shoshone approval. This is a violation of the Treaty of Ruby Valley and tribal sovereignty. In addition, the Western Shoshone National Council, of which the Timbisha Shoshone Tribe is a member, declared in 1995 that all Western Shoshone lands were a *Nuclear Free Zone*, thus barring the storage, use, or disposal of all radioactive materials. It is the responsibility of the Western Shoshone of this generation to *protect* future generations, not poison them.

Criteria for the Yucca Mountain Preliminary Site Suitability Evaluation is provided in proposed guidelines 10 CFR 963. Like the state of Nevada and many other governmental units, organizations, and individuals, the Timbisha Shoshone Tribe submitted comments regarding the proposed guidelines in February, 2000. The Tribe recommended that the proposed guidelines retain the stricter guidelines found in 10 CFR 960. A Site Suitability Evaluation should have been written according to the final guidelines, which supposedly would have been revised in response to the comments. Instead, we are given a "preliminary" evaluation according to "proposed" Guidelines. What is the rush, since the Yucca Mountain project is constantly being revised due to profound uncertainties regarding radionuclide leakage into the groundwater, storage container viability, dangers of volcanic eruption, dangerous transportation logistics, and vulnerability to terrorist attacks?

The Timbisha Shoshone Tribe strongly recommends that the Yucca Mountain Preliminary Site Suitability Evaluation be revised and finalized according to the final guidelines of 10 CFR 963. At that point, a public comment period should be initiated.

In addition to the above reasons for extending the comment period until the final guidelines and corresponding final *Site Suitability Evaluation* is available, the Final EIS for the Yucca Mountain Project has also not been completed. Although the DOE attempts to delink the EIS from the *Site Suitability Evaluation* and all other reports, it is apparent that an environmental impact analysis is inextricably related to site suitability. The Timbisha Shoshone Tribe also submitted comments on the DEIS and the Supplemental EIS. An evaluation of *Site Suitability* would be inherently incomplete without the Final EIS for reference.

The Timbisha Shoshone Tribe strongly recommends that the final Yucca Mountain Site Suitability Evaluation (revised according to the final guidelines of 10 CFR 963) be available for public comment after the Final EIS for the Yucca Mountain project is completed. Since much information will be presented for the first time, it is recommended that a six month comment period be initiated. In addition, public hearings should be held in all the places across the country where hearings were held for the Draft EIS. Extremely inadequate notice was given for the "extended" public hearings (i.e., five days notice for the hearing in Independence, CA—one person from the public showed up)—proper and timely notice must be given for public input.

The unresolved dangers of the Yucca Mountain project demand that the DOE listen and respond to the concerns of tribes and others who may know much more than the DOE about "site suitability." If the ancestors of the Timbisha Shoshone had left such a poison for future generations we probably would be dead or not able to live here anymore. The ancestors would never do this, and the Timbisha Shoshone Tribe of today will never approve the desecration of this land for future generations. The Site Suitability Evaluation is supposedly for 10,000 years. There must be no politically motivated rush to push through the relocation of a poison you still don't understand, don't know what to do with, but continually reproduce. Common sense alone demands that this madness must stop.

The inadequate comment period for the Yucca Mountain Preliminary Site Suitability Evaluation also undercuts adequate time for proper government-to-government consultation between the DOE and the Timbisha Shoshone Tribe. As the Consolidated Groups, Tribes, and Organizations (CGTO) stated at its October 5, 2001 meeting with the DOE in Las Vegas, the CGTO-DOE meetings do not take the place of government-to-government consultation. Because of the extremely short time frame for comments, it may not be possible to schedule a government-to-government consultation with the Timbisha Shoshone Tribe before the comment period ends. Again, it is strongly recommended that the comment period for the Yucca Mountain Preliminary Site

Suitability Evaluation be extended until the final Yucca Mountain Site Suitability Evaluation (revised according to the final guidelines of 10 CFR 963) is available and the Final EIS for the Yucca Mountain project is completed and available for review.

(2) Comments on the Yucca Mountain Preliminary Site Suitability Evaluation

Even though the Timbisha Shoshone Tribe and other Indian tribes would be impacted by the Yucca Mountain Project, no tribe has yet been afforded "affected status" designation by the DOE, as provided for in Section 116 (a) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended. Unlike the State of Nevada or counties in the region, the Timbisha Shoshone Tribe was never given any funds to fully address the complex environmental and cultural issues associated with the proposed nuclear waste repository at Yucca Mountain.

On April 16, 2001, the Timbisha Shoshone tribe petitioned the Department of the Interior (DOI) for "Affected Indian Tribe" status. To date, there has been no response from the DOI regarding a decision. While this decision is pending, the burden is on the DOE to provide the most complete, pro-active, government-to-government consultation on all the complex, interlinked, and scientifically technical reports and evaluations. Thus far, the DOE has failed in this Trust responsibility.

The Yucca Mountain Preliminary Site Suitability Evaluation, like the DEIS, SEIS, Yucca Mountain Science and Engineering Report, Total System Performance Assessment for the Site Recommendation, and countless other documents available for pubic review, is a poorly written, technical work-in-progress which doesn't even attempt to provide clear, concise information which the public can comment upon. For instance, key passages in the Summary of Results are not in bold or italics, do not have bullets for emphasis, and are not highlighted at the beginning of the chapter. In order to find out the important conclusions of the 300 page document, one has to wade through unemphasized, ordinary text (i.e., pp. 4-2 and 4-5,4-6). The Site Suitability Evaluation is still raw data, a technical report that demands a revision in clear language. Such raw, unedited, technical reports require extended comment periods for adequate evaluation.

Despite these hindrances, a few preliminary comments can be made on the Yucca Mountain Preliminary Site Suitability Evaluation.

(1) The 10,000 year regulatory compliance period is insufficient because groundwater contamination from leaked radionuclides is predicted by the DOE to occur after 10,000 years (other scientists have predicted leakage within a thousand years). The predictive models for 10,000 years are extremely abstract and virtually worthless, since they are based upon data which is constantly being revised as new data is accumulated. If present-day science cannot produce an adequate model of site suitability which extends to the full length of the project—300,000 years plus—then we know that the DOE does

not have the capability for a full analysis of all the potential impacts of the project. Future generations should not have to pay for the U.S. government's avoidable mistakes.

- (2) Does the Yucca Mountain Preliminary Site Suitability Evaluation consider the proposed changes in design as presented in the SDEIS? If yes or no, where is this stated in the Evaluation? Which Yucca Mountain project is being preliminarily evaluated?
- (3) Section 3.3.10.4 on inadvertent human intrusion seems extremely inadequate after the events of September 11, 2001. The proposed 10 CFR 963 Guidelines and the corresponding *Yucca Mountain y Site Suitability Evaluation* need to be revised in light of recent events.

As stated above, more comments and a Tribal Resolution regarding the Yucca Mountain Preliminary Site Suitability Evaluation and the DOE process for will be forthcoming. We ask that the staff of the Department of Energy consider the fate of future generations rather than political expediency to be their guide. The decision on the Yucca Mountain site suitability will determine who will live and who will die. It is not to be taken lightly, and it should absolutely not be arrived at hastily.

In conclusion, the Timbisha Shoshone Tribe will be directly effected by the proposed Yucca Mountain project. Since the Furnace Creek parcel of the Tribe is down-gradient from the groundwater of Yucca Mountain, the predicted radionuclide leakage from the storage casks will eventually reach the Timbisha Shoshone. Also, the proposed Carlin/Caliente Bonnie Claire rail corridor alignment for the transport of high level nuclear waste bisects the Scotty's Junction trust land of the Timbisha Shoshone Tribe in Nevada. If built, the proposed Yucca Mountain project would adversely effect future members of the Timbisha Shoshone Tribe as well as all living things at the site vicinity and along the proposed transportation corridors. Nothing presented in the Yucca Mountain Preliminary Site Suitability Evaluation or any of the other DOE documents justifies the site suitability of Yucca Mountain for the storage of high level nuclear waste. It is apparent that the DOE doesn't know the meaning of "site suitability."

Sincerely,
Barbara Durham
Tribal Administrator
Bill Helmer
EPA Program Director
Timbisha Shoshone Tribe

Dr. Jane R. Summerson, EIS Document Manager M/S 010
U.S. Department of Energy
Office of Civilian Radioactive Waste Management
Yucca Mountain Site Characterization Office
P.O. Box 30307
North Las Vegas, NV 89036-0307
FAX: 1-800-967-0739

RE: Comment Period for Specific Individuals for the Supplement to the Draft Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, NV, 66 Federal Register 34623-34624 (June 29,2001)

Dear Dr. Summerson:

The comment period of the SDEIS is inadequate, different deadlines for different segments of the public is a violation of NEPA, and there were insufficient hearings for a project of national importance. The Timbisha Shoshone Tribe formally requests that DOE extend the comment period to August 13th for everyone. It is also requested that you expedite this matter as soon as possible.

In the Federal Register announcement of June 29, 2001, DOE states that the August 13 deadline only applies to those "individuals" which were sent the DEIS but were not sent the SEIS at the beginning of the 45 day comment period on May 4, 2001. However, Inyo County branch librarians in Death Valley and Bishop, CA, were sent cover letters dated June 22 with a copy of the SDEIS. The letter stated that comments were due by August 13th. Although the cover letter was addressed to the individual librarian, the SDEIS was actually sent to the library for review by the general public. Thus, if a person reviewed the SDEIS at Bishop or Death Valley, the due date for comments would be August 13th.

DOE has not informed the citizens of Inyo County that the SDEIS is now available in their public libraries for review, and that the due date is now August 13th. If a member of the public does not use one of these libraries, the due date is July 6th. Even if individuals, organizations, or governmental entities were sent the SDEIS on May 4, wouldn't they have the right to go to the public library in order to further review and comment upon the SDEIS? It is conceivable that members of the general public had time to review the SDEIS from another source, and then go to the Inyo County library to review the SDEIS again, thus giving that person a longer comment period than those who were informed that the due date is July 6th. This creates a

situation in which some members of the public have a longer time for review than others. It also creates a situation in which the general public is not aware that the SDEIS is available for comment at a public library. At the very least, this violates Sec. 1506.6 Public Involvement of NEPA Regulations:

Federal agencies shall:

- (a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.
- (b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.

As the above paragraph shows, DOE has created an unfair, narrowly constricted comment period for some members of the public by creating two comment period deadlines, July 6th and August 13th. In addition, the public has not been informed that copies of the SDEIS are now available for review in certain Inyo County libraries and that the due date for comments is August 13th. Since the librarians of the Inyo County branch libraries obtained copies of the SDEIS on behalf of the general public, and not to themselves as individuals, it can only be assumed that the August 13th deadline applies to any member of the general public who reviews the SDEIS at one of these libraries. This confusing and unfair circumstance would not have arisen if the DOE simply set August 13 as the due date for all comments. This violation of the spirit and letter of NEPA is a dangerous precedent and should be immediately rescinded with notice to the public in the federal register and the Yucca Mountain website as soon as possible.

On June 8, the Timbisha Shoshone Tribe participated in a Consolidated Group of Tribes and Organizations (CGTO) meeting with DOE in which the CGTO requested a 60 day comment period extension beyond June 25th. Instead, a mere eleven days were granted during the July 4th holiday period. The complexity of the SDEIS and the numerous voluminous documents referenced make a 90 day comment period barely adequate. This is why the Timbisha Shoshone Tribe formally requests that DOE extend the comment period to August 13th for everyone.

In addition, public hearings on the SDEIS should be conducted across the nation, as was done (to a limited extent) for the Draft EIS. The design changes for the Yucca Mountain nuclear waste facility are national, not local issues. If the SDEIS proposes an argument that these design changes can produce a "safe" nuclear repository, then the transport of nuclear waste to Yucca Mountain would be the recommended scenario. The millions of people who live on or near the nuclear waste transport routes thus have a vested interest in commenting upon these proposed design changes. DOE is constricting public knowledge of the project so that its predetermined goal of opening Yucca Mountain can proceed, no matter what the consequences or dangers.

Sincerely,

Bill Helmer EPA Program Director Timbisha Shoshone Tribe

Barbara Durham Tribal Administrator Timbisha Shoshone Tribe

cc: Lake Barrett, Acting Director of the Office of Civilian Radioactive Waste Management

Dr. Jane R. Summerson, EIS Document Manager M/S 010
U.S. Department of Energy
Office of Civilian Radioactive Waste Management
Yucca Mountain Site Characterization Office
P.O. Box 30307
North Las Vegas, NV 89036-0307

RE: Supplement to the Draft Environmental Impact Statement (SDEIS) for a Geological Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada

Dear Dr. Summerson:

The Timbisha Shoshone Tribe submits the following comments on the SDEIS for the proposed Yucca Mountain project. Although the Tribe is meeting the July 6th deadline for comments, a request is being made to extend the comment period to August 13 for the Tribe and the general public (see 1 below). If the August 13th extension is granted, then the Tribe may submit additional comments.

The Timbisha Shoshone Tribe would also like to thank Dr. Summerson and other staff from DOE and Bechtel SAIC for consulting with tribal members at the Tribal Office on July 2, 2001.

GENERAL COMMENTS

- The proposed Yucca Mountain facility for the storage of high level nuclear waste is located approximately 35 miles from the Furnace Creek Trust Parcel of the Timbisha Shoshone Tribe. The Trust land is down-gradient from Yucca Mountain, and contaminated, radioactive groundwater is guaranteed to poison future generations of Timbisha Shoshone tribal members if the Yucca Mountain facility (as described in the DEIS, the SDEIS, and the Yucca Mountain Science and Engineering Report: Technical Information Supporting Site Recommendation Consideration) is built. The Yucca Mountain project directly affects the fate of the Timbisha Shoshone Tribe. This is why the Timbisha Shoshone Tribe has petitioned the Secretary of the Interior to become an Affected Indian Tribe under the Nuclear Waste Policy Act of 1982.
- The Timbisha Shoshone Tribe is part of the Western Shoshone Nation. The 1863 Treaty of Ruby Valley between the Western Shoshone Nation and the United States is in full force and effect. Yucca Mountain is western Shoshone Land.

- Although transportation issues were not discussed in the SDEIS, the DOE recently informed the Timbisha Shoshone Tribe that the proposed Carlin/Caliente Bonnie Claire Option for a rail corridor to Yucca Mountain goes right through the Scotty's Junction Trust Parcel of the Tribe (see attached map). Let it be on record that the Timbisha Shoshone Tribe strongly opposes this proposed rail corridor because of its potential threat to the land, the safety of tribal members, and the adverse effects it would have on the Tribe's economic development. The inadequate, small scale map in the DEIS (p. 6-42) did not show this occurrence, even though The Timbisha Shoshone Tribal Homeland: A Draft Secretarial Report to Congress to Establish a Permanent Tribal Land Base and Related Cooperative Activities indicated the location of the proposed Trust land parcel (p. 35) and was published in April 1999, three months before the publication of the DEIS for Yucca Mountain.
- DOE activities which disturb Western Shoshone cultural sites on Yucca Mountain cannot be mitigated.

SPECIFIC COMMENTS ON THE SUPPLEMENT TO THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (SDEIS)

1. The comment period of the SDEIS is inadequate, establishing different deadlines for different segments of the public is a violation of NEPA, and there were insufficient hearings for a project of national importance. The Timbisha Shoshone Tribe formally requests that DOE extend the comment period to August 13th for everyone. Since time is critical, it is requested that this matter be remedied as soon as possible.

In the Federal Register announcement of June 29, 2001, DOE states that the August 13 deadline only applies to those "individuals" which were sent the DEIS but were not sent the SEIS at the beginning of the 45 day comment period on May 4, 2001. However, Inyo County branch librarians in Death Valley and Bishop, CA, were sent cover letters dated June 22 with a copy of the SDEIS. The letter stated that comments were due by August 13th. Although the cover letter was addressed to the individual librarian, the SDEIS was actually sent to the library for review by the general public. Thus, if a person reviewed the SDEIS at Bishop or Death Valley, the due date for comments would be August 13th.

DOE has not informed the citizens of Inyo County that the SDEIS is now available in their public libraries for review, and that the due date is now August 13th. If a member of the public does not use one of these libraries, the due date is July 6th. Even if individuals, organizations, or governmental entities were sent the SDEIS on May 4, wouldn't they have the right to go to the public library in order to further review and comment upon the SDEIS? It is conceivable that members of the general public had time to review the SDEIS from another source, and then go to the Inyo County library to review the SDEIS again, thus giving that person a longer comment period than those who were informed that the due date is July 6th. This creates a situation in which some members of the public have a longer time for review than

others. It also creates a situation in which the general public is not aware that the SDEIS is available for comment at a public library. At the very least, this violates Sec. 1506.6 Public Involvement of NEPA Regulations:

Federal agencies shall:

- (a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.
- (b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.

As the above paragraph shows, DOE has created an unfair, narrowly constricted comment period for some members of the public by creating two comment period deadlines, July 6th and August 13th. In addition, the public has not been informed that copies of the SDEIS are now available for review in certain Inyo County libraries and that the due date for comments is August 13th. Since the librarians of the Inyo County branch libraries obtained copies of the SDEIS on behalf of the general public, and not to themselves as individuals, it can only be assumed that the August 13th deadline applies to any member of the general public who reviews the SDEIS at one of these libraries. This confusing and unfair circumstance would not have arisen if the DOE simply set August 13 as the due date for all comments. This violation of the spirit and letter of NEPA is a dangerous precedent and should be immediately rescinded with notice to the public in the federal register and the Yucca Mountain website as soon as possible.

On June 8, the Timbisha Shoshone Tribe participated in a Consolidated Group of Tribes and Organizations (CGTO) meeting with DOE in which the CGTO requested a 60 day comment period extension beyond June 25th. Instead, a mere eleven days were granted during the July 4th holiday period. The complexity of the SDEIS and the numerous voluminous documents referenced make a 90 day comment period barely adequate. This is why the Timbisha Shoshone Tribe formally requests that DOE extend the comment period to August 13th for everyone.

In addition, public hearings on the SDEIS should be conducted across the nation, as was done (to a limited extent) for the Draft EIS. The design changes for the Yucca Mountain nuclear waste facility are national, not local issues. If the SDEIS proposes an argument that these design changes can produce a "safe" nuclear repository, then the transport of nuclear waste to Yucca Mountain would be the recommended scenario. The millions of people who live on or near the nuclear waste transport routes thus have a vested interest in commenting upon these proposed design changes. DOE is constricting public knowledge of the project so that its predetermined goal of opening Yucca Mountain can proceed, no matter what the consequences or dangers.

2. The SDEIS is confusing, poorly written, and underemphasizes critical issues in an almost seamless pile of technical data. This ignores Sec. 1502.8 Writing in the NEPA regulations: "Environmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them."

The Tribe made this same comment about the DEIS, but the comment was ignored.

3. The "flexible design" concept used in this SDEIS, based upon the Yucca Mountain Science and Engineering Report: Technical Information Supporting Site Recommendation Consideration, fails to provide the Tribe or the public with a "proposed action" which will not be significantly changed in the near future.

The evaluation of impacts in Section 3 of the SDEIS describes significant components of a project which may not exist six months or a year from now. Sec. 1502.16 Environmental Consequences of NEPA is not complied with because a specific project and its alternatives are not described, and thus cannot be evaluated. The Yucca Mountain project is being rushed through for political reasons even though the scientific capability to safely design and implement such an undertaking does not exist.

- 4. The Land Use and Ownership section of the SDEIS (p. 3-3) does not acknowledge that Yucca Mountain is still claimed by the Western Shoshone Nation, and thus DOE's claim to land ownership is in dispute. This should be stated in the SDEIS.
- 5. In the Environmental Justice Section (p. 3-16), the SDEIS ignores the Yucca Mountain project's disproportionate impacts to the Timbisha Shoshone Tribe, whose Trust lands are either in the path of future radioactive contaminants (Furnace Creek Parcel) or within a proposed rail corridor for Yucca Mountain (the Carlin/Caliente Bonnie Clair Option which bisects the Scotty's Junction Trust Parcel). These impacts should be stated in the SDEIS because they were ignored in the DEIS.
- 6. The increased accident potential of the "Waste Handling and Fuel Blending" design change since the DEIS of 1999 is not analyzed.

Like the DEIS, the SDEIS provides raw data rather than analysis in assessing this current proposal. Important facts are not emphasized, and must be picked out in the unanalyzed data stream. For instance, it is revealed only in the third sentence of the fourth paragraph that *fuel blending* is a new design concept that was not part of the proposed project as described in the DEIS (p. 2-15). Accidents which could occur in the spent nuclear fuel blending inventory pools are not adequately analyzed in Section 3.1.8. By hiding or underemphasizing significant changes and their potential dangers, DOE again chooses to ignore NEPA regulations which state: "Agencies shall reduce excessive paperwork by: ...(f) Emphasizing the portions of the environmental impact

statement that are useful to decisionmakers and the public...(Sec. 1500.4 Reducing paperwork).

- 7. The Summary of the SDEIS does not provide a clear explanation of the differences (and their significance and potential dangers) between the project as described in the DEIS and the SDEIS.
- Sec. 1502.12 Summary of the NEPA regulations states that "The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives)". The above sentence was completely ignored in the SDEIS; only unanalyzed raw data were provided.
- 8. A wind farm is proposed for an area of the Nevada Test site which is culturally and spiritually significant to the Western Shoshone and other Native Americans. If constructed, the wind farm will likely be used to supply the electrical needs of the Yucca Mountain facility.

Even though the wind farm may be directly related to the Yucca Mountain project (SDEIS, 2.3.2.44 Electrical Power), the environmental impacts of the wind farm project are not analyzed in the SDEIS.

- 9. The SDEIS does not acknowledge that the State Engineer of Nevada denied the DOE's request for water rights to supply the Yucca Mountain Project (pp. 2-19 and 3-6) because of threats to the public interest. This was ignored even though the State Engineer made the ruling on February 2, 2000. An analysis of alternative supplies of water should have been included in the SDEIS.
- 10. The description of Cumulative Impacts (p. 3-22) is completely inadequate. Stating that cumulative impact changes between the DEIS designs and the proposed designs in the SDEIS would be "proportional" or a "20-percent increase" does not explain anything. Cumulative impacts of the present designs of the proposed project need to be evaluated in plain language.

CONCLUSION

Although the SDEIS was supposed to have evaluated new and improved designs for the Yucca Mountain project, the current repository design parameters do nothing to prevent the eventual leakage of radionuclides into the groundwater, thus contaminating the Timbisha Shoshone Homeland for future generations. The question is *when* will the radioactive contaminants leak, not *if.* The dangers of nuclear waste transport for millions of people across the country are also given inadequate analysis.

And as stated above, the Timbisha Shoshone Tribe strongly opposes the Carlin/Caliente Bonnie Claire Option for a rail corridor to Yucca Mountain. This route was planned even though the rail line would bisect the Scotty's Junction Trust

Land of the Timbisha Shoshone Tribe, thus endangering tribal members while destroying the lands of the Tribe. In addition, the Tribe realizes that all routes which would transport high level nuclear waste would be dangerous, just as the Yucca Mountain project itself is dangerous and a threat to future generations. The DOE has not provided any arguments beyond a level of extreme uncertainty that the Yucca Mountain project is safe.

For the reasons stated above, the SDEIS is inadequate and is not in compliance with NEPA.

Sincerely,

Bill Helmer EPA Program Director Timbisha Shoshone Tribe

Leroy Jackson Acting Chairperson Timbisha Shoshone Tribal Council October 17, 2001

Carol Hanlon
U.S. Department of Energy
Yucca Mountain Site Characterization Office (M/S #25)
PO Box 30307
North Las Vegas, NV 89036-0307

RE: Timbisha Shoshone Tribal Resolution on the Yucca Mountain Preliminary Site Suitability Evaluation

Dear Ms. Hanlon:

The enclosed Tribal Resolution is submitted in addition to the previous comments on the *Yucca Mountain Preliminary Site Suitability Evaluation* submitted to the DOE on October 5 at the Las Vegas CGTO meeting (oral comments), and at the public hearing in the Amargosa Valley on October 10 (written and oral comments).

Sincerely,

Barbara Durham Tribal Administrator Timbisha Shoshone Tribe

RESOLUTION NO. 18-2001

SUBJECT: YUCCA MOUNTAIN HIGH LEVEL NUCLEAR WASTE SITE SUITABILITY

WHEREAS, the Timbisha Shoshone Tribe has received federal recognition, as stated in the Federal Register of October 6, 1982, as an Indian tribe entitled to privileges and immunities by virtue of its status as a Tribe with a government-to-government relationship with the United States government; and

WHEREAS, the Timbisha Shoshone Tribe's Constitution was adopted January 25, 1986 by the Timbisha Shoshone General Council, and

WHEREAS, the Timbisha Shoshone Tribal Council is the Tribe's autonomous governmental body established pursuant to the Tribe's Constitution to undertake the necessary steps and actions to promote the health, safety, welfare and economic well-being of its members; and

WHEREAS, the Timbisha Shoshone Tribal Council is empowered to consult, negotiate, contract or conclude agreements with federal, state, local and tribal governments and with private persons and organizations; and

WHEREAS, the Timbisha Shoshone Homeland Act (P.L. 106-423) signed into law on November 1, 2000, has provided the Timbisha Shoshone Tribe with a land base in California and Nevada, with Trust land parcels very close to the proposed high level nuclear waste site at Yucca Mountain; and

WHEREAS, the Yucca Mountain Nuclear Waste Site is being illegally proposed on Western Shoshone lands without Western Shoshone approval, thus a violation of the Treaty of Ruby Valley and tribal sovereignty, and

WHEREAS, the Western Shoshone National Council, of which the Timbisha Shoshone Tribe is a member, declared in 1995 that all Western Shoshone lands were a *Nuclear Free Zone*, thus barring the storage, use, or disposal of all radioactive materials; and

WHEREAS, the Timbisha Shoshone Tribe will be directly effected by the proposed Yucca Mountain project since the Furnace Creek parcel of the Tribe is down-gradient from the groundwater of Yucca Mountain, and the predicted radionuclide leakage from the storage casks will eventually reach the Timbisha Shoshone; and

WHEREAS,, a proposed Carlin/Caliente Bonnie Claire rail corridor alignment for the transport of high level nuclear waste bisects the Scotty's Junction trust land of the Timbisha Shoshone Tribe in Nevada, and if built, the proposed Yucca Mountain project would adversely effect future members of the Timbisha Shoshone Tribe as well as all living things at the site vicinity and along the proposed transportation corridors; and

WHEREAS, on April 16, 2001, the Timbisha Shoshone tribe petitioned the Department of the Interior (DOI) for "Affected Indian Tribe" status with no response from the DOI to date, thus placing a strong obligation on DOE to provide the most complete, pro-active, government-to-government consultation on all the complex, interlinked, and scientifically technical reports and evaluations, a trust obligation which DOE has failed, and

WHEREAS, the Department of Energy has failed to provide true government-to-government consultation with the Timbisha Shoshone Tribe by ignoring its letter (dated October 10, 2001) and testimony at a public hearing in Amargosa Valley (on October 10, 2001) requesting an extension of the comment period for the *Yucca Mountain Preliminary Site Suitability Evaluation* in order to provide for adequate consultation; and

WHEREAS, the Yucca Mountain Preliminary Site Suitability Evaluation was prematurely issued, before its final version according to the finalized 10 CFR 963 guidelines were approved, and before the Final EIS for the Yucca Mountain Project was available for review, thus barring a final tribal and public review of the completed and interrelated documents; and

WHEREAS, the Yucca Mountain Preliminary Site Suitability Evaluation does not provide any compelling arguments or data to minimize the uncertainties regarding radionuclide leakage into the groundwater, storage container viability, dangers of volcanic eruption, dangerous transportation logistics, and vulnerability to terrorist attacks; and

THEREFORE BE IT RESOLVED, that the Timbisha Shoshone Tribe strongly urges the Secretary of Energy to not recommend Yucca Mountain as a site suitable for the storage of high level nuclear waste, and

BE IT FURTHER RESOLVED, that the Timbisha Shoshone Tribe strongly urges the Secretary of Energy to transfer funds from the Yucca Mountain project into feasibility studies regarding safe, on-site storage of nuclear waste and other alternatives along with a program of phasing out the nuclear power plants and nuclear weapons which continue to produce high nuclear waste.

BE IT FURTHER RESOLVED: That the Chairperson is authorized to negotiate, sign and complete all necessary documents relating to this request and the Vice-Chairperson is authorized to act in the Chairperson's absence.

CERTIFICATION

This resolution was adopted	ed by the Tribal Co	uncil membe	ers of the Timb	isha
Shoshone Tribe at a duly of				
	year two thousand			.,
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WITHABSENT.	•			
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Leroy Jackson, Chairperson		Date		
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Shirley Summers, Council Member		Date		

October 10, 2001

Carol Hanlon
U.S. Department of Energy
Yucca Mountain Site Characterization Office (M/S #25)
PO Box 30307
North Las Vegas, NV 89036-0307

RE: Timbisha Shoshone Tribe's Comments on the Yucca Mountain Preliminary Site Suitability Evaluation and Related Topics

Dear Ms. Hanlon:

These preliminary comments on the Department of Energy's *Yucca Mountain Preliminary Site Suitability Evaluation* are submitted by the Timbisha Shoshone Tribe. A Tribal Resolution and additional comments regarding the *Site Suitability Evaluation* will be submitted before the October 19 deadline.

The following comments will address the unacceptable process for tribal (and public) input, and the Yucca Mountain Preliminary Site Suitability Evaluation document itself.

(1) Comments on the process for tribal (and public) input

As has been stated before, the Yucca Mountain project is illegally being proposed on Western Shoshone lands without Western Shoshone approval. This is a violation of the Treaty of Ruby Valley and tribal sovereignty. In addition, the Western Shoshone National Council, of which the Timbisha Shoshone Tribe is a member, declared in 1995 that all Western Shoshone lands were a *Nuclear Free Zone*, thus barring the storage, use, or disposal of all radioactive materials. It is the responsibility of the Western Shoshone of this generation to *protect* future generations, not poison them.

Criteria for the Yucca Mountain Preliminary Site Suitability Evaluation is provided in proposed guidelines 10 CFR 963. Like the state of Nevada and many other governmental units, organizations, and individuals, the Timbisha Shoshone Tribe submitted comments regarding the proposed guidelines in February, 2000. The Tribe recommended that the proposed guidelines retain the stricter guidelines found in 10 CFR 960. A Site Suitability Evaluation should have been written according to the final guidelines, which supposedly would have been revised in response to the comments. Instead, we are given a "preliminary" evaluation according to "proposed" Guidelines. What is the rush, since the Yucca Mountain project is constantly being revised due to profound uncertainties regarding radionuclide leakage into the groundwater, storage container viability, dangers of volcanic eruption, dangerous transportation logistics, and vulnerability to terrorist attacks?

The Timbisha Shoshone Tribe strongly recommends that the Yucca Mountain Preliminary Site Suitability Evaluation be revised and finalized according to the final guidelines of 10 CFR 963. At that point, a public comment period should be initiated.

In addition to the above reasons for extending the comment period until the final guidelines and corresponding final *Site Suitability Evaluation* is available, the Final EIS for the Yucca Mountain Project has also not been completed. Although the DOE attempts to delink the EIS from the *Site Suitability Evaluation* and all other reports, it is apparent that an environmental impact analysis is inextricably related to site suitability. The Timbisha Shoshone Tribe also submitted comments on the DEIS and the Supplemental EIS. An evaluation of *Site Suitability* would be inherently incomplete without the Final EIS for reference.

The Timbisha Shoshone Tribe strongly recommends that the final Yucca Mountain Site Suitability Evaluation (revised according to the final guidelines of 10 CFR 963) be available for public comment after the Final EIS for the Yucca Mountain project is completed. Since much information will be presented for the first time, it is recommended that a six month comment period be initiated. In addition, public hearings should be held in all the places across the country where hearings were held for the Draft EIS. Extremely inadequate notice was given for the "extended" public hearings (i.e., five days notice for the hearing in Independence, CA—one person from the public showed up)—proper and timely notice must be given for public input.

The unresolved dangers of the Yucca Mountain project demand that the DOE listen and respond to the concerns of tribes and others who may know much more than the DOE about "site suitability." If the ancestors of the Timbisha Shoshone had left such a poison for future generations we probably would be dead or not able to live here anymore. The ancestors would never do this, and the Timbisha Shoshone Tribe of today will never approve the desecration of this land for future generations. The Site Suitability Evaluation is supposedly for 10,000 years. There must be no politically motivated rush to push through the relocation of a poison you still don't understand, don't know what to do with, but continually reproduce. Common sense alone demands that this madness must stop.

The inadequate comment period for the Yucca Mountain Preliminary Site Suitability Evaluation also undercuts adequate time for proper government-to-government consultation between the DOE and the Timbisha Shoshone Tribe. As the Consolidated Groups, Tribes, and Organizations (CGTO) stated at its October 5, 2001 meeting with the DOE in Las Vegas, the CGTO-DOE meetings do not take the place of government-to-government consultation. Because of the extremely short time frame for comments, it may not be possible to schedule a government-to-government consultation with the Timbisha Shoshone Tribe before the comment period ends. Again, it is strongly recommended that the comment period for the Yucca Mountain Preliminary Site

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Suitability Evaluation be extended until the final Yucca Mountain Site Suitability Evaluation (revised according to the final guidelines of 10 CFR 963) is available and the Final EIS for the Yucca Mountain project is completed and available for review.

(2) Comments on the Yucca Mountain Preliminary Site Suitability Evaluation

Even though the Timbisha Shoshone Tribe and other Indian tribes would be impacted by the Yucca Mountain Project, no tribe has yet been afforded "affected status" designation by the DOE, as provided for in Section 116 (a) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended. Unlike the State of Nevada or counties in the region, the Timbisha Shoshone Tribe was never given any funds to fully address the complex environmental and cultural issues associated with the proposed nuclear waste repository at Yucca Mountain.

On April 16, 2001, the Timbisha Shoshone tribe petitioned the Department of the Interior (DOI) for "Affected Indian Tribe" status. To date, there has been no response from the DOI regarding a decision. While this decision is pending, the burden is on the DOE to provide the most complete, pro-active, government-to-government consultation on all the complex, interlinked, and scientifically technical reports and evaluations. Thus far, the DOE has failed in this Trust responsibility.

The Yucca Mountain Preliminary Site Suitability Evaluation, like the DEIS, SEIS, Yucca Mountain Science and Engineering Report, Total System Performance Assessment for the Site Recommendation, and countless other documents available for pubic review, is a poorly written, technical work-in-progress which doesn't even attempt to provide clear, concise information which the public can comment upon. For instance, key passages in the Summary of Results are not in bold or italics, do not have bullets for emphasis, and are not highlighted at the beginning of the chapter. In order to find out the important conclusions of the 300 page document, one has to wade through unemphasized, ordinary text (i.e., pp. 4-2 and 4-5,4-6). The Site Suitability Evaluation is still raw data, a technical report that demands a revision in clear language. Such raw, unedited, technical reports require extended comment periods for adequate evaluation.

Despite these hindrances, a few preliminary comments can be made on the Yucca Mountain Preliminary Site Suitability Evaluation.

(1) The 10,000 year regulatory compliance period is insufficient because groundwater contamination from leaked radionuclides is predicted by the DOE to occur after 10,000 years (other scientists have predicted leakage within a thousand years). The predictive models for 10,000 years are extremely abstract and virtually worthless, since they are based upon data which is constantly being revised as new data is accumulated. If present-day science cannot produce an adequate model of site suitability which extends to the full length of the project—300,000 years plus—then we know that the DOE does

not have the capability for a full analysis of all the potential impacts of the project. Future generations should not have to pay for the U.S. government's avoidable mistakes.

- (2) Does the Yucca Mountain Preliminary Site Suitability Evaluation consider the proposed changes in design as presented in the SDEIS? If yes or no, where is this stated in the Evaluation? Which Yucca Mountain project is being preliminarily evaluated?
- (3) Section 3.3.10.4 on inadvertent human intrusion seems extremely inadequate after the events of September 11, 2001. The proposed 10 CFR 963 Guidelines and the corresponding *Yucca Mountain y Site Suitability Evaluation* need to be revised in light of recent events.

As stated above, more comments and a Tribal Resolution regarding the Yucca Mountain Preliminary Site Suitability Evaluation and the DOE process for will be forthcoming. We ask that the staff of the Department of Energy consider the fate of future generations rather than political expediency to be their guide. The decision on the Yucca Mountain site suitability will determine who will live and who will die. It is not to be taken lightly, and it should absolutely not be arrived at hastily.

In conclusion, the Timbisha Shoshone Tribe will be directly effected by the proposed Yucca Mountain project. Since the Furnace Creek parcel of the Tribe is down-gradient from the groundwater of Yucca Mountain, the predicted radionuclide leakage from the storage casks will eventually reach the Timbisha Shoshone. Also, the proposed Carlin/Caliente Bonnie Claire rail corridor alignment for the transport of high level nuclear waste bisects the Scotty's Junction trust land of the Timbisha Shoshone Tribe in Nevada. If built, the proposed Yucca Mountain project would adversely effect future members of the Timbisha Shoshone Tribe as well as all living things at the site vicinity and along the proposed transportation corridors. Nothing presented in the Yucca Mountain Preliminary Site Suitability Evaluation or any of the other DOE documents justifies the site suitability of Yucca Mountain for the storage of high level nuclear waste. It is apparent that the DOE doesn't know the meaning of "site suitability."

Barbara Durham
Tribal Administrator

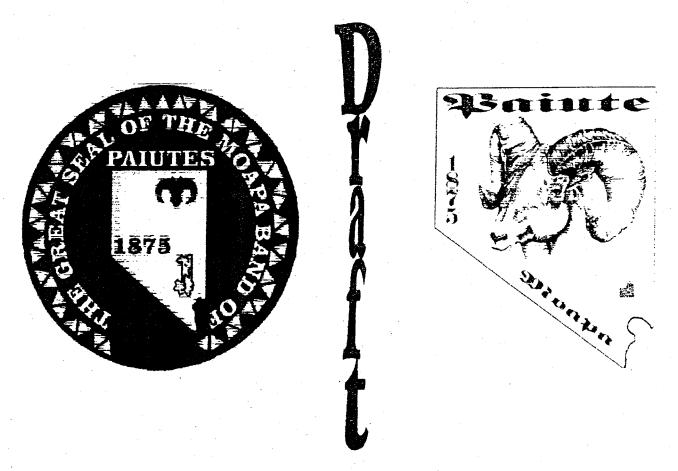
Bill Helmer
EPA Program Director
Timbisha Shoshone Tribe

APPENDIX II: MATERIALS SUBMITTED BY TRIBES, 2001

Attachment 6: Moapa Band of Paiutes

Moapa Band of Paiutes

Department of Environmental Protection



Tribal Preparedness

For

High Level Nuclear Waste

"Traversing Tribal Lands"

Moapa Band of Paiutes Department of Environmental Protection

Tribal Preparedness for High Level Nuclear Waste "Traversing Tribal Lands"

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Tribal Preparedness for High Level Nuclear Waste "Traversing Tribal Lands" (Emergency Preparedness)

The tribe will need the following to be prepared for the transportation of "Nuclear Waste" across tribal lands.

- 1) The ability to respond to an accident on tribal lands:
- A. Tribal Emergency response
 - a) Emergency response equipment (fire suppression)

Fire truck and associated supplies;

Emergency personnel i.e.: trained firemen, radio dispatchers

Equipment i.e.: fire truck, fire suits

Supplies i.e.: hazardous waste suits, oxygen tanks, radios

Associated supplies: dispatch radios, generators, mechanics, phones

b) Emergency response equipment (medical)

Ambulance and associated supplies;

Emergency personnel i.e.: Paramedics or EMT

c) Emergency response equipment (mechanical)

Mechanic to make sure the equipment will be able to respond

- B. Tribal emergency response support
 - a) Fire station/dispatch center (personnel support)

Fire suppression/medical training and funding to keep such personnel for 24-hour day Dispatch training and funding to keep such personnel for 24-hour day

Mechanic training and funding to keep such personnel for 8 hour day

- C. Tribal emergency response center
 - a) Tribal emergency response center building and support supplies infrastructure for a tribal response center IE: sewer, water and reliable power source Tribal emergency response center <u>Building</u>
- 2) Governmental issues:
- A. Memorandums
- a) Memorandums between tribe and other such agencies IE: state, county, DOE and other such federal agencies
- **B**. Other Tribal issues
 - a) Tribal council business time
 - b) Tribal attorney's time/fees
 - c) Tribal members time and input
 - d) Tribal meetings
 - e) Emergency response plan. funding and training on writing a plan
 - f) Tribal emergency response coordinator, funding and training

- g) Advertisements: employment positions, RFPs IE: supplies (ambulance & fire truck) building structure and infrastructure
- h) Insurance of equipment and building
- i) Liability insurance
- j) Exercises
- k) Updated certification of personnel and equipment
- 1) Equipment needs to be able to travel over very rough terrain
- m) Education outreach to tribal council as well as the community members
- n) The need for more than one person trained in the emergency response positions
- o) Computer for emergency response center including software and maintenance plus proper training on the use of the computer and hardware

Tribal Preparedness for High Level Nuclear Waste "Traversing Tribal Lands: (Spirituality Issues)

The tribe's issues on spirituality and the transportation of "Nuclear Waste" across present day tribal lands and traditional lands.

- 1) The song trails
- A) Traditional songs and their trail:
 - a) The traditional songs that help us as tribal people get to the other world after we pass on
 - b) The traditional paths to get to places of healing/power
 - c) the traditional stories that were told and prayers that were given
- 2) The land
- A) The land and uses:
 - a) The land that is a living being
 - b) The land that is known as a healing being and that is alive IE: the mountains and desert that has the power to heal
 - c) The land that is alive and that provides for our well being IE: the land that is well provides us with food
 - d) Landscape
 - e) Traditional Cultural Properties and routes to them and their use

Tribal Preparedness for High Level Nuclear Waste "Traversing Tribal Lands" (Economic Impacts)

Economic impacts that will/could be felt by the tribe may include.

- 1) Moapa Tribal Enterprises store/casino:
- A) Lost revenue
 - a) Lost revenue from loss of tourist traffic
 - b) Lost revenue from loss of truck driver traffic
 - c) lost revenue from the loss of supply deliveries
 - d) Lost revenue from other proposed development
- 2) Personal loss of income
- A) Lost income from possible road closures
 - a) The possibility of road closures could/would cause the loss of personal income to the tribal members that work at the Moapa Tribal Enterprises store/casino
 - b) The possibility of road closures could would cause the loss of personal income to the tribal members that work in the surrounding communities as well as those that may be working in the Las Vegas valley
 - c) The possibility of road closures could/would cause the loss of personal income to the tribal members that may work on any proposed future development
- 3) Other economic impacts
 - a) Increase in the rate of insurance
 - b) Loss of cattle revenue
 - c) Loss of farm revenue
 - d) Loss of green house revenue
 - e) Loss of personal business revenue
- 4) All of the above losses will be impacted by:
 - A) Length of effects/contamination
 - B) The public's perception of the risks involved

Tribal Preparedness for High Level Nuclear Waste "Traversing Tribal Lands" (Community/Socio Impacts)

The tribal members will feel the following Socio impact from the transportation of High Level Nuclear Waste across Tribal/Traditional lands

- 1) The impact on the tribal social setting:
- A) Impacts to traditions at off reservation sites/places
 - a) Hunting and the gathering of traditional foods will be impacted
 - b) The gathering of traditional medicines will be impacted
 - c) Traditional foods and medicine will be impacted
- B) The impact to the extended tribal family
 - a) Impacts may be felt on the extended family of many if not all tribal members. Many of the extended family members live in the neighboring states, thus personal visits will be impacted.
 - b) Impacts to the funeral services and Big Time
- C) Impacts to the traditional gatherings
 - a) Impacts to the funeral services as well as Big Time will be felt
 - b) Impacts to the tribal community to travel to other gatherings IE: Pow-wows will be felt.
- **D**) Other impacts to the community
 - a) Accident involving the tribal council
 - b) Students going to school
 - c) Medical doctor's visit
 - d) Mental anguish

Tribal Preparedness
for
High Level Nuclear Waste
"Traversing Tribal Lands"
(Mitigation)

Emergency Preparedness

Spirituality Issues

There is no mitigation of these issues

Economic Impacts

Community/Socio Impacts

There is no mitigation of these issues